

AGC of America’s Overview of the INVEST in America Act *(as reported)*

BILL FEATURES ALIGNED WITH AGC OBJECTIVES

- Increased Overall Funding Levels (Increases over [FAST Act](#))**
 - \$494 billion over five years (FY 2021-2025) (\$305 billion under FAST Act)
 - \$319 billion for highways (\$226 billion under FAST Act)
 - \$105 billion for transit (\$61 billion under FAST Act)
 - \$60 billion for passenger rail (\$10 billion under FAST Act)

- Additional FY 2021 Funding (Needed COVID-19 Relief)**
 - Additional \$14.7 billion for highways and \$5.8 billion for transit for FY 2021. Increases federal share to 100 percent.

- New National Pilot Program for Vehicle Miles Traveled**
 - Creates a nationwide VMT pilot program that has been a priority for AGC to help transition to the VMT to fix the Highway Trust Fund.

- Construction Workforce Development & Training**
 - Allows states to use funding for work zone safety training and certification that includes construction workers. Creates a task force to develop recommendations on attracting people to transportation careers. Directs USDOT to carry about PSA campaigns to raise awareness about career opportunities in the transportation sector.

- No Deleterious Changes to the DBE Program**
 - No changes are made to the Disadvantaged Business Enterprises (DBE) Program, but opportunity exists in the legislative process to make improvements.

- Codifies “Every Day Counts” (EDC) at FHWA; Creates one at FTA**
 - Makes permanent at FHWA and creates at FTA EDC initiative, which identifies and rapidly deploys proven, yet underutilized innovations to shorten the project delivery process, enhance roadway safety, reduce traffic congestion and greenhouse gas emissions.

BILL FEATURES THAT CAUSE AGC CONCERN

- Increased Overall Funding Levels (No Sustainable HTF Fix)**
 - \$412 billion comes from the Highway Trust Fund (HTF). The HTF needs at least \$70 billion to sustain FY 2020 funding levels over the next five fiscal years. This does not include additional revenue or General Fund transfers needed to support the higher funding levels in the INVEST in America Act and the lost revenue from the COVID-19 pandemic. HTF is projected to be insolvent by mid-2021.

- Additional FY 2021 Funding (Agency Operating Expenses Over Projects?)**
 - Provides funding eligibilities for state/public transportation agencies’ that cover employee salaries and benefits and other operating expenses as a result of the pandemic. AGC is concerned this could come at the expense of funding projects.

- Restricts Expanding Highway Capacity in the Highway Program**
 - Focuses on a “fix-it-first” approach to bring the system into a state of good repair. As a result, the bill places restrictions on or excludes eligibilities for expanding highway capacity. AGC is concerned these restrictions could inhibit state DOTs’ ability to meet the needs of their particular states/cities/localities.

- Expands/Creates Eligibilities for Non-Highway Projects in Highway Program**
 - Significantly increases funding eligibilities within the Highway Program for public transit and multimodal projects and creates new eligibilities for intercity passenger rail (e.g., Amtrak). AGC is concerned that these new eligibilities could come at the expense of meeting the core mission of the Highway Program.

- Increases Funding Dedicated for Geographic Areas in Each State**
 - Increases funding dedicated to particular geographic areas of a state within the Surface Transportation Program, thereby limiting the flexibility of the state DOT to determine where funds and projects are most needed. This dedicated funding can take the longest to be spent. AGC is concerned that such funds will not be utilized in the most efficient manner to safely and expeditiously deliver transportation infrastructure projects and their intended public benefits.

- No Significant Environmental Review/Permit Streamlining Provisions**
 - The bill does not include significant provisions to streamline the federal environmental review and permitting processes in ways that reduce administrative redundancies without jeopardizing the environment. AGC is concerned that some of the ways the bill incorporates climate change considerations throughout the surface transportation programs could delay the delivery of projects.

☒ **Reinstates Local Labor Hiring Pilot Program at USDOT**

- Allows state/local governments to utilize local hiring preferences on federal-aid highway/transit contracts. AGC's concern is the illegal discrimination against a contractor's existing workforce who resides outside the project area.

☒ **Fails to Protect Contractors for Performance Failures of Innovative Materials**

- The bill incentivizes state DOTs to use "innovative materials" on projects. AGC is concerned that contractors will face unmitigated product performance liability when installing novel and uncertified materials over a project's lifecycle.

☒ **Adds New Bridge Certification and Training Requirements**

- The bill requires corrosion prevention work on certain bridges be performed by certified contractors. A certified contractor is a contractor or a subcontractor that has been certified by a third-party organization to carry out work on certain bridges. A certified contractor must also provide training for its employees through a qualified training program. AGC is concerned that such a mandate will unnecessarily limit competition, increase bridge project costs and perpetuate certified training monopolies without significantly reducing lifecycle bridge costs.

☒ **Expands Buy America Requirements for Highway Projects**

- The bill adds construction materials to the Buy America requirements for federally funded highway projects. AGC is concerned with the potential breathe of what could be considered "construction material," the availability of such materials domestically and how reasonable accommodations or waivers will be granted if such materials are not available domestically.