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AGC THE CONSTRUCTION ASSOCIATION

Overview of the $3.5 Trillion Human Infrastructure Bill ("Reconciliation Bill" or Build Back Better Act)

✓ THE BILL'S PROS	☒ THE BILL'S CONS
	☒ **Includes Elements of PRO Act—#1 Threat to Open Shop & Union Construction** The bill includes provisions of the **PRO Act** that would: • Hold business officers and directors personally liable for fines—as high as $100,000—for violations of the National Labor Relations Act, even if those individuals made a policy that led to a violation; • Prohibit employers from permanently replacing striking workers; • Prohibit employers from locking out employees prior to a strike; and • Prohibit employers from holding so-called "captive audience" meetings where employers can share their views on unionization to employees during business hours
	☒ **Establishes Bankruptcy Inducing Fines; OSHA Fines Up to $700,000** For example, the bill would increase fines levied by OSHA for: • A willful or repeat violation from a maximum of $70,000 to $700,000; and • A serious or failure-to-abate violation from a maximum of $7,000 to $70,000 Such fines could be devastating to small construction firms, possibly leading to bankruptcy.
☑ **Provides over $194 Billion for Private Construction Tax Incentives** Of that, $134B is for the construction and deployment of **renewable energy**; $47B for housing, $26B for the Rehabilitation (**Historic**) tax credit; and $2B for the **New Markets** tax credit.	☒ **Ties Labor Mandates to Private Construction Tax Incentives** For developers to receive federal tax credits for building solar, wind and other renewable energy projects, constructing affordable housing, renovating historic buildings, or building rural community projects, their contractors would have to meet 15% registered apprentice goals based on total labor hours performed and/or pay prevailing wages, expanding Davis-Bacon requirements to tax incentives for the first time.
☑ **Includes Nearly $38 Billion for Public Construction Financing** $22B for "Qualified Infrastructure Bonds" (**Build America Bonds**); $15B to reinstate advanced refunding of municipal bonds; and $195M for new categories of private activity bonds.	☒ **Ties Labor Mandates to Public Construction Financing** Construction projects financed or funded with the new Qualified Infrastructure Bonds or Private Activity Bonds (including existing categories of PABs) would have to all workers on the project prevailing wages, expanding Davis-Bacon requirements to certain municipal finance for the first time. *Note: under this legislation Davis-Bacon requirements would not apply to tax-exempt municipal bonds.*
	☒ **Increases Top Individual Marginal Tax Rate from 37% to 42.6%** The bill increases the top individual marginal tax rate from 37% to 39.6% for incomes over $400,000 for individuals, and $450,000 for married filing jointly. A new 3% "surcharge" on individual income in excess of $5 million would raise the top rate to 42.6%.
	☒ **Increases Corporate Tax Rate from 21% to 26.5%** The bill would increase the corporate tax rate from 21% to 26.5% on income over $5 million.

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	☒ **Increases the Top Long-Term Capital Gains Rate from 20% to 28.8%** Increases the top long-term capital gains rate from 20% to 25% for incomes over $400,000 for individuals, and $450,000 for married filing jointly. The 3.8% net investment income tax would continue to apply to income over $200,000 for individuals, and $250,000 for married filing jointly, for a combined top capital gains tax rate of 28.8%.
	☒ **Provides $79 Billion for IRS Enforcement & Audits** This figure is six times more than annual IRS enforcement budget and would lead to more audits.
	☒ **Creates Mandates on Employers to Provide Retirement Plans** Requires employers with five or more employees and without employer-sponsored plans to automatically enroll their employees in IRAs or 401(k)-type plans with a minimum of 6 percent of pay and includes financial penalties for noncompliance.
☑ **Provides $80 Billion for Workforce Development Programs** These funds would go to workforce development programs—like the Perkins Career and Technical Training program, apprenticeship, youth apprenticeship and pre-apprenticeship programs, federal workforce system—with an emphasis on training people for clean energy-related jobs.	☒ **Fails to Provide a Level Playing Field for Obtaining Workforce Development Funding** These funds would <u>only</u> be available to apprenticeship, youth apprenticeship and pre-apprenticeship programs that are registered with the state or U.S. Dept. of Labor. While joint labor-management apprenticeship programs are the gold standard for training workers in the industry, high-quality unilateral programs should be eligible for government funding on a fair and impartial basis. Expanding opportunity and access to all training opportunities is an important part of addressing workforce shortages.
☑ **Provides $82 Billion for K-12 Public School Construction** This funding would largely flow through state and local education authorities based on the percentage of disadvantaged students in the enrolled population of elementary and secondary schools.	☒ **K-12 Public School Construction Projects May Include Labor Mandates** Because these funds are disbursed via grant programs at the U.S. Dept. of Education, that agency would have discretion to award grants to projects that incorporate labor requirements, like government-mandated project labor agreements, local hire goals, or other targeted preferential hiring requirements.
☑ **Includes $43 Billion for Utility Infrastructure** Of that $43 billion, $30 billion would go to drinking water projects, $9 billion to electric transmission line construction, $2 billion to sewer overflow and wastewater reuse, and $2 billion for electric vehicle charging station infrastructure.	☒ **Some Utilities Infrastructure Funding May Include Labor Mandates** Because the funds for electric transmission lines are disbursed via grant programs at the U.S. Dept. of Energy, that agency would have discretion to award grants to projects that incorporate labor requirements, like government-mandated project labor agreements, local hire goals, or other targeted preferential hiring requirements.
☑ **Provides approximately $38 Billion for Transportation** This transportation construction funding would largely go to public transit, intercity passenger rail, and high-speed rail construction. Some funds would go towards projects that reduce transportation emissions.	☒ **Some Transportation Funding May Include Labor Mandates; Restricts New Roads** Because much of these funds are disbursed via grant programs at the U.S. Dept. of Transportation, it would have discretion to award grants to projects that incorporate labor requirements, like government-mandated project labor agreements, local hire goals, or other targeted preferential hiring requirements. In addition, these funds would place restrictions on building and/or limit the ability to build new roads or highway lanes, focusing on maintaining existing roads under a so-called "fix-it-first" approach.
☑ **Includes $17.5 Billion for Federal Buildings/Fleets** These funds would be used to help reduce emissions from federal buildings and/or federal fleets, which could lead to renovation or new construction projects.	☒ **Federal Buildings Funding May Include Labor Mandates** These funds would be distributed via a grant program at the U.S. Dept. of Energy. As such, that agency would have discretion to award grants to projects that incorporate labor requirements, like government-mandated project labor agreements, local hire goals, or other targeted preferential hiring requirements.

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	☒ **Expands Electric Vehicle (EV) Subsidies Without Addressing Highway Trust Fund** The bill would further exacerbate the HTF deficit by greatly expanding subsidies for the purchase of EVs without establishing a method for these vehicles to contribute to the trust fund. The legislation would expand the maximum EV tax credit from $7,500 to $12,500 per vehicle and make the credit "fully refundable" so that individuals with no tax liability would still receive the full incentive. It would also create new tax credits for the purchase of used EVs and commercial EVs. The full credit(s) would only be available to vehicles manufactured at domestic facilities operating under a collective bargaining agreement.

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