



***Matthew W. Daus, Esq.***

*President, International Association of Transportation Regulators*  
<http://iatr.global/>

*Transportation Technology Chair, City University of New York,  
Transportation Research Center at The City College of New York*  
<http://www.utrc2.org/>

*Partner and Chairman, Windels Marx Transportation Practice Group*  
<http://windelsmarx.com>

*Contact: [mdaus@windelsmarx.com](mailto:mdaus@windelsmarx.com)*  
**156 West 56<sup>th</sup> Street | New York, NY 10019**  
**T. 212.237.1106 | F. 212.262.1215**

## **U.S. Infrastructure Bill Primer: Billions of Dollars on the Way for the Ground Transportation Sector!**

On November 15, 2021, President Biden signed the much anticipated, Infrastructure Investment and Jobs Act (H.R. 3684).<sup>1</sup> The \$1.2 trillion infrastructure bill was passed by the Senate, on August 10, 2021, with a bipartisan 69-to-30 vote, and – after several months of consideration – the bill was passed by the House of Representatives on November 8, 2021 with 13 Republicans joining the Democratic majority.<sup>2</sup> The infrastructure bill is being touted as a generational investment in America’s infrastructure, with \$550 billion in funds being targeted towards improving roads, removing lead water pipelines, upgrading bridges, and expanding broadband accessibility.<sup>3</sup> President Biden also announced that a task force overseeing the infrastructure funds will be led by Brian Deese, Director of the National Economic Council, and Mitch Landrieu, former Mayor of New Orleans.<sup>4</sup>

During the bill signing ceremony, President Biden stated that “for too long we have talked about having the best economy in the world, we have talked about asserting American leadership around the world, with the best and the safest roads, railroads, ports, airports... but today we are finally getting this done.” The \$550 billion new spending investment in America’s infrastructure will be disbursed over 5 years and the funds will be used to ensure safe travel and transportation across the country.<sup>5</sup> According to the American Society of Civil Engineers, the U.S. scored a C-grade on the Society’s 2021 infrastructure report card, which takes into account categories such as rail, aviation, roads, schools, and transit systems. Of the categories graded, the U.S. score the lowest in transit systems earning a D- grade in 2021.<sup>6</sup> The infrastructure bill is intended to tackle these areas of improvement with targeted investments.<sup>7</sup> More than one-half of the \$550 billion allocated for new spending is transportation-focused, with \$283.8 billion dedicated to categories related to transportation: roads, bridges & major projects; airports; low-carbon and zero-emission school buses and ferries; passenger and freight rail; ports and waterways; electric vehicle charging; public transit; safety and research; and reconnecting communities.<sup>8</sup>

The infrastructure bill allocates \$110 billion into roads, bridges and other major projects. The final legislation puts more than \$25 billion towards helping modernize America’s airports, although the Airports Council International estimates the airports have \$115 billion worth of

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<sup>1</sup> <https://www.cnn.com/videos/politics/2021/11/15/biden-signs-infrastructure-bill-nr-vpx.cnn>;  
<https://www.congress.gov/bill/117th-congress/house-bill/3684>

<sup>2</sup> [https://www.washingtonpost.com/politics/biden-poised-to-sign-12-trillion-infrastructure-bill-fulfilling-campaign-promise-and-notching-achievement-that-eluded-trump/2021/11/15/1b69f9a6-4638-11ec-b8d9-232f4afe4d9b\\_story.html](https://www.washingtonpost.com/politics/biden-poised-to-sign-12-trillion-infrastructure-bill-fulfilling-campaign-promise-and-notching-achievement-that-eluded-trump/2021/11/15/1b69f9a6-4638-11ec-b8d9-232f4afe4d9b_story.html); <https://www.nytimes.com/2021/08/10/us/politics/infrastructure-bill-passes.html>

<sup>3</sup> <https://www.politico.com/news/2021/11/15/biden-signs-bipartisan-infrastructure-deal-522567>

<sup>4</sup> <https://www.forbes.com/sites/jonathanponciano/2021/11/15/everything-in-the-12-trillion-infrastructure-bill-biden-just-signed-new-roads-electric-school-buses-and-more/?sh=242387e1161f>

<sup>5</sup> <https://www.cnn.com/2021/07/28/politics/infrastructure-bill-explained/index.html>

<sup>6</sup> <https://www.cnn.com/2021/03/30/politics/infrastructure-us-investment-cost-engineers/index.html>

<sup>7</sup> <https://www.cbsnews.com/live-updates/infrastructure-bill-biden-signing-ceremony-white-house/>

<sup>8</sup> <https://www.brookings.edu/blog/the-avenue/2021/11/09/america-has-an-infrastructure-bill-what-happens-next/>

backlog projects.<sup>9</sup> The legislation includes an unprecedented \$66 billion investment in freight and passenger rail, which will directly benefit Amtrak and provide much needed funding for upgrades.<sup>10</sup> This is the largest investment in Amtrak since the rail service was founded in 1971.<sup>11</sup> The law’s final language also provides \$39 billion towards public transit to modernize and expand transit systems in an effort to meet ridership demand. Public transit upgrades include making all public transit stations accessible and bringing transit to new areas, especially underserved communities.<sup>12</sup> The White House expects the infrastructure bill to boost the economy and create millions of jobs, especially in the transit and transportation industries, according to President Biden, “[n]ot only will we see more record-breaking job growth, we’ll see lower prices, [and] faster deliveries as well.”<sup>13</sup>

### ***Transit Systems Will Receive Significant Funding***

Transit systems across the US could be transformed by this cash infusion: every state will receive funding to help improve its infrastructure. Populous states like New York, California, and Texas can expect to receive the most funding; however, less populous states will benefit by receiving more funding per capita.<sup>14</sup> For example, in New York, the Metropolitan Transit Authority (MTA) expects to receive at least \$10 billion in funding to make the system more wheelchair-accessible. The federal funds will also help with the bottleneck at major Long Island Railroad stations. In New Jersey, the funding is expected to push major improvements at the region’s airports and expedite the purchase of electric buses.<sup>15</sup> In California, the state expects to receive \$1.5 billion to improve airports, \$9.45 billion to expand and improve public transportation and \$384 million over the next five years to expand the network of charging stations available for electric vehicles.<sup>16</sup> This cash infusion will help Los Angeles meet its goal of electrifying the Metro’s bus fleet by 2030.<sup>17</sup> Texas is expected to receive a huge \$35.44 billion over the next five years. This influx of funding is mainly dedicated to the improvement of federal highway programs, but public transportation in Texas will also benefit from the dedicated funding of \$3.3 billion.<sup>18</sup>

The U.S. Department of Transportation is receiving \$150 billion in funding to be issued directly to cities, local governments, and states. Of that \$150 billion, \$50 billion will be distributed based on funding formulas; however, \$100 billion will be left available for competitive grants.<sup>19</sup> This is an unprecedented amount of funding which provides federal administrators with significant discretion. This cash infusion will shape the infrastructure of the United States in the coming

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<sup>9</sup> <https://www.forbes.com/sites/jonathanponciano/2021/11/15/everything-in-the-12-trillion-infrastructure-bill-biden-just-signed-new-roads-electric-school-buses-and-more/?sh=242387e1161f>

<sup>10</sup> <https://www.cnn.com/2021/11/15/biden-signing-1-trillion-bipartisan-infrastructure-bill-into-law.html>

<sup>11</sup> <https://www.nytimes.com/2021/08/10/us/politics/infrastructure-bill-passes.html>

<sup>12</sup> <https://www.cnn.com/2021/07/28/politics/infrastructure-bill-explained/index.html>

<sup>13</sup> <https://thehill.com/homenews/administration/581053-biden-hopes-to-turn-infrastructure-bill-into-jobs-quickly>

<sup>14</sup> <https://www.cnn.com/2021/08/31/infrastructure-bill-map-which-states-get-the-most-money.html>

<sup>15</sup> <https://www.nytimes.com/2021/11/15/nyregion/infrastructure-bill-new-york.html>

<sup>16</sup> <https://www.latimes.com/politics/story/2021-11-15/what-is-in-biden-infrastructure-bill-california>

<sup>17</sup> <https://abc7.com/infrastructure-bill-california-roads-federal-dollars-biden/11240429/>

<sup>18</sup> <https://www.texastribune.org/2021/11/09/biden-infrastructure-bill-texas/>

<sup>19</sup> <https://www.sacog.org/post/what-new-federal-infrastructure-bill-means-sacramento-region>;

<https://www.politico.com/newsletters/politico-nightly/2021/11/11/on-infrastructure-follow-the-money-495071>

decade and beyond. While funds are available through grants for states and government, there are several areas of opportunity for private companies to obtain grants under the infrastructure bill, specifically in the areas of electrification and transportation, which will allow for partnerships between governmental and private entities.

### ***Going Big on Going Green...***

The legislation provides \$15 billion in funding for the electrification of “everyday” transportation. These funds will be divided equally with \$7.5 billion each for electric vehicle supply equipment (EVSE) charger expansion, and low-to-zero emission school buses. The final legislative language allows for investments of \$2.5 billion in zero-emission buses, \$2.5 billion in low-emission buses, and \$2.5 billion in ferries.<sup>20</sup> There are approximately 500,000 school buses in America moving 26 million children between school and home every day. About 95% of these school buses currently run on diesel, which accounts for 5 million tons of yearly greenhouse gas emissions and fumes, which have been linked to respiratory health issues in children. Today, battery-powered school buses account for less than 1% of vehicles in America’s school-bus fleet. With these funds, the number of battery-powered school buses could increase tenfold in the next five years.<sup>21</sup> Funding for e-buses can be allocated to local or state governments, federally recognized tribes providing bus service to 1 or more public schools, an eligible contractor, or a nonprofit school transportation association. Funds will be available through the U.S. Environmental Protection Agency (EPA) program administrators for grants and rebates through a competitive application. Vehicles included in the grant program must be used for school transportation only. Ferries are also eligible for funding. The priority for these grant funds are programs that serve high-needs schools, bureau-funded schools, schools receiving public assistance and rural or low-income school districts.

In addition to school buses, the new law focuses on expanding the availability of EVSE chargers, and the \$7.5 billion will go towards the nation’s first network of electric-vehicle chargers along highway corridors.<sup>22</sup> The legislation provides a historic investment in the electric vehicle sector, and will improve adoption of electric vehicles for daily commuting.<sup>23</sup> While only public sector entities will be eligible to apply for grant funding for EVSE charger programs, funds can be used by public entities to contract with private companies. All EVSE chargers included in this program must be publicly accessible and provide a variety of payment methods for the user. The federal funding for this program will particularly focus on those that serve multi-unit dwellings, rural areas, and disadvantaged communities.

There are also many new areas of funding for the transportation sector. With regards to safety, there is \$11 billion allocated, and for the first time, safe alternative transportation is

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<sup>20</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2021/07/28/fact-sheet-historic-bipartisan-infrastructure-deal/>

<sup>21</sup> <https://time.com/6117544/electric-school-buses/>

<sup>22</sup> <https://www.forbes.com/sites/jonathanponciano/2021/11/15/everything-in-the-12-trillion-infrastructure-bill-biden-just-signed-new-roads-electric-school-buses-and-more/?sh=242387e1161f>

<sup>23</sup> <https://www.zeta2030.org/news/the-infrastructure-investment-and-jobs-act-makes-historic-investments-in-electric-vehicles-but-further-investment-is-needed>

receiving a boost in funding to the tune of \$1.79 billion a year, which is a 70% increase in annual funding, which will benefit pedestrians, bicyclists, and other non-motorized, sustainable transportation users.<sup>24</sup> The program allocates \$200 million for new projects that support safe active transportation, including walking and cycling.

### ***Vision Zero Gets a Big Boost***

Also included in the final bill is the “Safe Streets for All” legislation, which will provide \$6 billion in funding for Vision Zero, but also includes funding for partnerships between private and governmental entities.<sup>25</sup> There are 6 provisions which describe what can be funded under the programs:

1. Complete street projects that support safe, convenient, independent movement of all users in the transportation system.
2. Activities eligible under the Safe Routes to School program.
3. Development and implementation of policies or procedures for context sensitive design.
4. Any element of Vision Zero planning or implementation of existing Vision Zero plan.
5. Activities in furtherance of the vulnerable road user safety assessment of the State or metropolitan planning organization.
6. Any other project, program, or plan that provides safe and adequate accommodation of all users of the surface transportation network, as determined by the Secretary of Transportation.<sup>26</sup>

### ***New and Expanded Grant Program Funding***

The funds for the U.S. Department of Transportation (“DOT”) and other federal agency grant programs are expected to be deployed at different times. Formula funds are expected to flow to the states within 6 months of the bill being signed. In addition, grant programs already in existence should also receive funds within 6 months. However, new grant programs will likely receive funds within 12 months. Some programs include annual funding, which will continue to be distributed each fiscal year. Given the significant funds available, there is an opportunity for many organizations and entities to benefit from this bill. Many private sector companies will need to partner with governmental entities to apply for grant programs. It is critical that applicants focus on outcomes and look at organizational goals for the next decade, instead of short-term planning when applying for these grants. Applicants should also take a regional approach and develop partnerships with governmental entities which will act as conveners through the process.

### ***New Requirements for Limousines***

In addition to a significant cash infusion, the bipartisan infrastructure bill also includes new safety requirements for limousines.<sup>27</sup> U.S. Representatives for New York Antonio Delgado (NY-19) and

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<sup>24</sup> <https://www.bikeleague.org/content/whats-happening-infrastructure-investment>

<sup>25</sup> <https://www.urban.org/urban-wire/build-safe-streets-all-biden-administration-can-look-other-countries-inspiration>; <https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/31/fact-sheet-the-american-jobs-plan/>

<sup>26</sup> <https://www.nlc.org/article/2021/08/17/cities-ready-to-lead-the-safe-streets-movement/>

<sup>27</sup> <https://www.washingtonpost.com/transportation/2021/11/13/crash-deaths-overhaul-transportation/>

Paul D. Tonko (NY-20) tried to include a slate of limousine safety reforms in the bill, but ultimately were only able to include only a few limousine safety measures.<sup>28</sup>

The Infrastructure bill defines the term “limousine” as a vehicle that has a seating capacity of nine or more persons (including the driver) with a gross vehicle weight rating greater than 10,000 pounds, but not greater than 26,000 pounds. The vehicle does not have to be altered post-manufacture to be considered a limousine. However, taxis, nonemergency medical vehicles, and paratransit motor vehicles are exempt from the definition.

The infrastructure bill directs the U.S. Secretary of Transportation to prescribe Federal Motor Vehicle Safety Standards (FMVSS) pertaining to seat belts in limousines, limousine crashworthiness, and limousine evacuation in case of emergency.<sup>29</sup> After the FMVSSs are issued, they will apply to new limousines as well as vehicles that are modified post-manufacture by increasing the wheelbase of the vehicle to make the vehicle a limousine.

Within two years, DOT must establish rules and amend existing FMVSSs requiring seat belts to be installed in limousines on each designated seating position, including on side-facing seats. DOT must also amend FMVSS 207 to require limousines to meet standards for seats (including side-facing seats), seat attachment assemblies, and seat installation to minimize the possibility of failure by forces acting on the seats, attachment assemblies, and installations as a result of motor vehicle impact. The DOT is also required to assess the feasibility, benefits, and costs to retrofit limousines to comply with these requirements.

The DOT has two years to research and then two years to develop the safety standards for features that aid evacuation in the event that an exit in the passenger compartment of a limousine is blocked. Following a four-year research period, the DOT must develop limousine crashworthiness safety standards for side impact protection, roof crush resistance, and air bag systems for the protection of occupants in limousines with alternative seating positions, including perimeter seating arrangements.

The legislation requires limousine operators to prominently disclose in a clear and conspicuous notice – including on the operator’s website – the following: the date of the most recent inspection required under state or federal law; the results of the inspection; and any corrective action taken to ensure the limousine passed inspection, if applicable. The Federal Trade Commission has enforcement authority over this requirement. Violators will be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act (15 U.S.C. 41 et seq.). This requirement takes effect 180 days after the date of enactment.

### ***What Happens Next?!***

For the transportation industry, the legislation will undoubtedly provide changes – directly or indirectly – over the next decade. Of course, legislative bill signings will generate a good amount

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<sup>28</sup> <https://delgado.house.gov/media/press-releases/delgado-tonko-announce-limo-safety-reforms-advancing-house-floor>

<sup>29</sup> INVEST Act § 23015

of pronouncements about how the law is a “game changer.” With the amount of funding dedicated to the local, state and federal programs, including funding for school buses, initiatives for electric vehicle charging stations, and the new federal limousine safety standards, the legislation may live up to its expectations as a “game-changer.” Even before federal rules and competitive grants are drafted, operators and technology companies should start thinking about ways in which to partner with and explore these opportunities with state and local transportation agencies. Major urban transit agencies expect to receive a total of \$33.5 billion in funding towards existing operations, which will leave significant room in their budgets for new projects.<sup>30</sup> The aviation industry will receive \$25 billion in federal funds to use for new and dormant projects.<sup>31</sup> Now is the time to discuss ideas, such as Mobility-as-a-Service, first-and-last-mile partnerships, Electric Vehicle infrastructure, and many other topics.<sup>32</sup> The legislation includes \$2.2 billion allocated for enhanced mobility innovations for the elderly and disabled, and \$193 million for transit research; and both are areas where Mobility-as-a-Service could make a major impact.<sup>33</sup> While the processes to obtain funding will take months to “roll out,” the funds are on the way!

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<sup>30</sup> <https://www.transit.dot.gov/about/news/us-department-transportation-announces-key-priorities-funding-public-transportation>; <https://www.rtands.com/passenger/fta-outlines-how-historic-spending-level-will-play-out-for-transit-infrastructure/>

<sup>31</sup> <https://www.faa.gov/bil>; <https://weartv.com/news/local/12t-infrastructure-bill-to-improve-aviation-industry>; <https://www.aviationpros.com/airports/article/21247440/federal-infrastructure-bill-how-much-can-your-airport-get>

<sup>32</sup> <https://time.com/6089649/infrastructure-bill-industries-benefit/>

<sup>33</sup> <https://www.transit.dot.gov/about/news/us-department-transportation-announces-key-priorities-funding-public-transportation>