

Policy Update: House Unveils Major Surface Transportation Legislation

Lewis-Burke Associates LLC – June 11, 2020

Last week, House Transportation and Infrastructure (T&I) Committee Chairman Peter DeFazio (D-OR) released draft text of the *Investing in a New Vision for the Environment and Surface Transportation in America Act* (INVEST Act). The legislation would authorize and fund existing and new surface transportation programs at the U.S. Department of Transportation (DOT) for fiscal years (FY) 2022 through FY 2025. This includes a proposed increase for the University Transportation Centers (UTC) program, a new “Unsolicited Research Initiative,” and other new programs focused on emerging transportation technologies and their deployment. The INVEST Act also incorporates Democrats’ aspirations of tackling the transportation sector’s contributions to climate change through landmark funding and policy shifts.

Unlike other federal agencies, the legislation governing DOT’s surface transportation programs is responsible for authorizing new and existing activities while also providing funding, usually for several years. The current authorization, *Fixing America’s Surface Transportation Act* (FAST Act) expires at the end of FY 2020, and the INVEST Act would maintain all current authorities and funding levels set by the FAST Act through FY 2021.

Below are key features of the INVEST Act of relevance to the research community.

University Transportation Centers

The INVEST Act increases funding for the program to \$96 million annually for the duration of the bill, an increase of \$18 million, or nearly 23 percent, above the FAST Act enacted level. It does not address the total number of UTCs. It also does not acknowledge the two new National UTCs established in FY 2018 appropriations or the current competition for four new Tier 1 UTCs. It is likely the number of UTCs will remain static when accounting for the newer 2018 and 2020 UTCs, the increases to each UTC category, and reduced cost share requirements (details on the latter two included below).

Keeping with the overall philosophy of the legislation, “reducing greenhouse gas emissions” would be a new thematic category that applicants could propose to separate from the “preserving the environment” category. It would also maintain the status quo funding mechanism by prohibiting DOT from utilizing cooperative agreements in place of grants.

The following are modifications the legislation would make to the three UTC categories:

- **National UTCs:** Increases the range of funding for National centers from \$2-4 million to \$2.25-4.25 million annually and reduces the cost share requirement from 100 percent match to 50 percent match. The number of National centers would be increased from five to six.
- **Regional UTCs:** Increases the range of funding for Regional centers from \$1.5-3 million to \$1.75-3.25 million annually and reduces the cost share requirement from 100 percent match to 50 percent match. It would also eliminate the FAST Act’s requirement that DOT ensure one of the Regional centers is focused on “comprehensive transportation safety, congestion, connected vehicles, connected infrastructure, and autonomous vehicles.”
- **Tier 1 UTCs:** Increases the range of funding for Tier 1 centers from \$1-2 million to \$1.25-2.25 million annually. The bill would also increase the competitiveness of minority serving

institutions by mandating at least two Tier 1 centers be awarded to corresponding institutions of higher education.

Of greatest impact to Tier 1s, a new provision would mandate DOT award at least one Tier 1 in each of the following: transit; connected and automated vehicle technologies; non-motorized transportation including bicycle and pedestrian safety; and current and future transportation workforce needs and challenges.

The INVEST Act would also mandate two climate-oriented Tier 1s. The first of these Tier 1s would focus on developing practices that support Metropolitan Planning Organizations (MPOs) to consider the direct and indirect greenhouse gas (GHG) emissions. Additionally, this Tier 1 would support MPOs' response to two new mandates imposed by the legislation:

- The management of transportation demand and increasing the rates of public transportation utilization, carpooling, walking, and bicycling; and
- Assessing the vulnerability of an MPOs transportation infrastructure to climate events, necessary changes to evacuation routes, and their climate adaptation and resilience improvement strategies.

The second climate-focused Tier 1 would support climate change mitigation by conducting research on transportation projects that are most and least effective at reducing GHG emissions in the sector.

Climate and Environmental Research

The bill hews closely to House Democrats' "Moving America Forward" framework released in January that proposed a new paradigm of federal infrastructure investments and incentives addressing the transportation sector's contributions and vulnerabilities to climate change. This emphasis is prevalent throughout the INVEST Act, including many of the proposed new research initiatives and the UTC program.

Separate from the changes to the UTC program, the legislation would:

- Establish a new program that awards grants for research, development, or deployment of materials that reduce or sequester GHGs resulting from the production of highway materials and construction. Institutions of higher education that have a track record of performance in this topic with would be eligible to compete for grants ranging from \$2-4 million with a 50 percent match requirement;
- Modify the Highway Research and Development Program (HRDP) by adding focus on GHG emission and climate impact reductions to HRDP's relevant activities (infrastructure integrity improvement; planning and environmental decision making; congestion reduction, highway operations, and freight productivity);
- Require DOT to update its strategic research plan and include an emphasis on reducing GHG emissions; and
- Modify the Technology Innovation and Deployment Program (TIDP) to including GHG and climate impact reductions as objectives that guide overall programmatic investments. It would also add a focus on GHG reduction and sequestration to TIDP's pavement technologies deployment activities.

Transportation Research & Technology Deployment

The INVEST Act emphasizes the need for DOT to support applied research and technology deployment at an accelerated pace. This approach is consistent with and builds on programs previously established by the FAST Act.

The bill would make the following notable changes to existing DOT activities and create new competitive opportunities:

- Establishes a new “Unsolicited Research Initiative” to advance research aligned with DOT’s strategic plan topic areas. Eligible entities include state and local governments, transit agencies, institutions of higher education, and nonprofit research organizations. The legislation provides \$2 million annually for the initiative drawn from UTC program’s budget;
- Requires DOT to create “interactive modeling tools and databases” that track highway conditions, assess transportation options, allows for monitoring and modeling of highway traffic flows, and promotes the importance of long distance and interregional transportation modes;
- Mandates and provides \$15 million annually for the Federal Highway Administration (FHWA) to develop, use, and maintain tools that support state and local governments’ analysis and forecasting of transportation performance;
- Creates a new National Cooperative Multimodal Freight Transportation Research Program within the National Academies of Science, Engineering, and Medicine’s (NASEM) Transportation Research Board (TRB). Its structure, governance, oversight, and research activities would be consistent with TRB’s other mode-specific cooperative research programs; and
- Codifies FHWA’s “Every Day Counts” initiative. The goal of the initiative is to promote the dissemination and deployment of innovations that encourage safety, efficiency, sustainability, and accountability of surface transportation projects.

The INVEST Act would similarly modify newer DOT research programs established by the FAST Act and DOT focused on the deployment of emerging technologies.

The popular Advanced Transportation Congestion Management Technologies Deployment (ATCMTD) program would be modified by removing its exclusive focus on congestion mitigation. Instead, it would focus broadly on “safe, efficient mobility through advanced technologies” that improve transportation “safety, efficiency, system performance, environmental impacts, and infrastructure return on investment.” The criteria used by DOT in awarding proposals under the program would also change to include a greater emphasis on pedestrian and non-motorized users, preparations for automated vehicle (AV) deployment rather than accelerating AV deployment, and reducing GHGs. Additional provisions would also require applicants to provide new information in their proposals related to mobility, safety, and environmental benefits.

Other provisions related to DOT’s advanced transportation technologies include:

- Establishing a new “National Highly Automated Vehicle and Mobility Innovation Clearinghouse” through a grant to a qualified university. The awardee would “conduct, collect, and fund research on the secondary impacts of highly automated vehicles and mobility innovation” and publish relevant findings. Highly automated vehicles (HAVs) encompass Level 4 and Level 5 HAVs under widely-adopted SAE International designation;
- Expanding DOT’s Intelligent Transportation Systems (ITS) Program focus to include GHG reduction;
- Removing the requirements that the ITS Program Advisory Committee include membership representing relevant scientific and technical disciplines;
- Requiring DOT to issue studies on the safe interactions of AVs and other road users through a new working group that would include membership by academic experts;

- Codifying DOT's Nontraditional and Emerging Transportation Technology (NETT) Council into law. The NETT is a new entity comprised of senior DOT officials across modal administrations and within the Secretary's office. Its intent is to overcome bureaucratic, regulatory, or communications barriers to the deployment of unconventional or non-traditional innovations; and
- Eliminating hurdles impacting the deployment of "hyperloop" transportation projects.

Next Steps

The committee is anticipated to mark up the legislation on Wednesday, June 17. Since its release, the legislation has received criticism from committee Republicans for a lack of bipartisan input and from progressive advocates that it does not go far enough to combat climate change.

The INVEST Act departs significantly from the Senate's *America's Transportation Infrastructure Act of 2019* (ATIA). Approved by the Senate's Environment and Public Works Committee (EPW) last summer, ATIA secured bipartisan praise for its approach to tackling climate change. The legislation awaits consideration by the Senate Commerce, Science, and Transportation Committee, which will add provisions related to surface transportation research, railroads, and other transportation modes.

It is still relatively early in the process of reauthorizing the FAST Act. The divergent House and Senate policy visions, congressional focus on addressing forefront national issues, and ramifications of the November election suggests that a resolution is unlikely to materialize this year. That said, the broader contours of the House's INVEST Act and Senate's ATIA will influence the specifics of a final outcome.

Sources and additional information:

- Text of the INVEST Act, a section-by-section summary of the entire bill, and other relevant supporting documents can be found on the T&I Committee's website here <https://transportation.house.gov/>.
- The House Democrats "Moving America Forward" framework can be found here <https://transportation.house.gov/imo/media/doc/Moving%20Forward%20Framework.pdf>.
- The Senate's *America's Transportation Infrastructure Act of 2019* can be found here <https://www.congress.gov/116/bills/s2302/BILLS-116s2302rs.pdf>.
- The current authorization, *Fixing America's Surface Transportation Act*, can be found here <https://www.govinfo.gov/content/pkg/PLAW-114publ94/pdf/PLAW-114publ94.pdf>.