House DOT Appropriations Bill for FY21 Tries to Fund Party Priorities in Tight Budget Environment

By Jeff Davis

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At 11 a.m. this morning, the House Appropriations Committee released the text of its draft fiscal year 2021 Transportation-Housing appropriations bill, which will receive a cursory approval in subcommittee tomorrow before being considered by the full committee in the coming weeks. (July 10 update: the Transportation-HUD Subcommittee approved the bill by voice vote on July 8 after a cursory markup session. The bill is scheduled to be considered by the full Appropriations Committee on Tuesday, July 14.)

Bill Overview

THUD Subcommittee chairman David Price (D-NC) and his staff had a difficult task – how to fund the promises made by the Moving Forward Act (the $1.5 trillion Democratic infrastructure bill passed by the House last week) while working under the Budget Control Act's spending caps and other constraints. As *ETW* wrote a month ago, the promises made by the infrastructure bill for discretionary funding for programs like Amtrak, other intercity passenger rail, and new subway and light rail systems and extensions were going to be impossible to fulfill under the spending caps.

The House bill fulfills those promises by going around the Budget Control Act's spending caps, in ways that are unlikely to become law.

Discretionary appropriations.

The annual THUD bill usually contains four titles:

I. Department of Transportation
II. Department of Housing and Urban Development
III. Related Agencies (STB, NTSB, FMC, Homelessness Council, etc.)
IV. General Provisions–This Act

In the new House bill, those four regular titles provide a net total of $75.9 billion in net total discretionary appropriations – an increase of $1.65 billion, or 2.2 percent, over fiscal 2020. These totals have to fit under the Budget Control Act spending caps. The House's gross total for USDOT (before rescissions and offsetting fees) is $25.1 billion, which is an ever-so-slight $122 million increase over the 2020 level (half of one percent).

Then the new House bill adds an additional Title V, providing an additional $75.0 billion in appropriations for 2021 designated as off-budget emergencies – $25.7 billion for USDOT, $49.0 billion for HUD programs, and $300 million for an independent agency.

The way that emergency designations work is: budget law states that appropriations which "the Congress designates as emergency requirements in statute on an account by account basis and the President subsequently so designates" are exempt from spending caps. But another part of budget law says that each emergency designation for each individual appropriations account gets knocked out of the bill in the Senate unless at least 60 Senators vote to support the emergency designation for that paragraph. And the fact that the President must subsequently (after the law is signed) sign an emergency designation for each individual account gives him an effective line-item veto over emergency appropriations.

For these reasons, people should not get their hopes up over the title V emergency appropriations and should instead focus on the regular title I budget. We have produced a three-page table showing all funding levels in title I compared to previous years and the budget request, which is here.

In terms of discretionary appropriations for every modal administration of USDOT, here is how the regular, on-budget appropriations for fiscal 2021 in the House bill (gross) compare with the extra emergency money in title V, in millions of dollars:

FY 2021 USDOT Discretionary Appropriations (House Bill)

	Title I On-Budget	Title V Emergency	TOTAL
OST	1,440.0	3,010.5	4,450.5
FAA	14,789.2	3,000.0	17,789.2
FHWA	1,000.0	0.0	1,000.0
FMCSA	0.0	0.0	0.0
NHTSA	231.1	0.0	231.1
FRA	3,032.1	13,100.0	16,132.1
FTA	2,963.1	5,000.0	7,963.1

Seaway	40.0	0.0	40.0
MARAD	1,245.1	1,570.5	2,815.6
PHMSA	260.7	0.0	260.7
OIG	98.2	7.5	105.7
TOTAL	**25,099.4**	**25,688.5**	**50,787.9**

For the most high-priority discretionary accounts under INVEST, the regular appropriations in the House bill fall far short of INVEST's promises, but the emergency appropriations would in some cases cause the total to exceed INVEST:

			House Appropriations	
Major General Fund Appropriations		INVEST Act	On-Budget	Emergency
FTA	Capital Investment Grants	3,259.8	2,175.0	5,000.0
FRA	Amtrak – Northeast Corridor	2,900.0	750.0	5,000.0
FRA	Amtrak – National Network	3,500.0	1,300.0	3,000.0
FRA	CRISI Grants	1,400.0	500.0	5,000.0
FRA	PRIME Grants	3,800.0	0.0	0.0

The regular USDOT discretionary budget is dominated each year by a handful of major accounts (well, it used to be a handful – post-2017 it has become a double handful). These demonstrate how generally constrained the overall 2021 discretionary budget is compared to 2020:

USDOT Discretionary Appropriations Accounts Over $500 Million

These are the budget accounts at USDOT that have received discretionary appropriations of $500 million per year or more in the last four years or in the 2021 budget request.
(Millions of dollars of gross discretionary budget authority.)

Mode	Account	FY 2017 Enacted	FY 2018 Enacted	FY 2019 Enacted	FY 2020 Enacted	FY 2021 Request	FY 2021 House	House vs. FY20
OST	Nat'l Infra. Invest./BUILD Grants	500	1,500	900	1,000	1,000	1,000	0
OST	INFRA Grants (Additional GF)	0	0	0	0	1,000	0	0
FAA	Operations	10,026	10,212	10,411	10,630	11,002	11,052	422
FAA	Facilities & Equipment	2,855	3,250	3,000	3,045	3,000	3,045	0
FAA	Airport Grants (Additional GF)	0	1,000	500	400	0	500	100
FHWA	Federal-aid Highways (GF)	0	2,525	3,250	2,166	0	1,000	-1,166
FRA	Amtrak - Northeast Corridor	328	650	650	700	325	750	50
FRA	Amtrak - National Network	1,167	1,292	1,292	1,300	611	1,300	0
FRA	Amtrak - Transitional NN Grants	0	0	0	0	550	0	0
FRA	Consolidated (CRISI) Grants	68	593	255	325	330	500	175
FTA	Formula Grants (Additional GF)	0	834	700	510	0	510	0
FTA	Capital Investment Grants	2,413	2,645	2,553	1,978	1,889	2,175	197
MARAD	Ops. & Train. + SMAs	176	514	495	495	475	593	98
Total, USDOT Accounts Over $500m		**17,532**	**25,014**	**24,005**	**22,549**	**20,182**	**22,425**	**-124**
All Other Discretionary at USDOT		1,948	2,401	2,677	2,429	1,899	2,675	246
Total USDOT Discretionary (Gross)		**19,480**	**27,415**	**26,682**	**24,978**	**22,081**	**25,099**	**122**
Biggest as Percent of Total USDOT Discr.		*90%*	*91%*	*90%*	*90%*	*91%*	*89%*	0

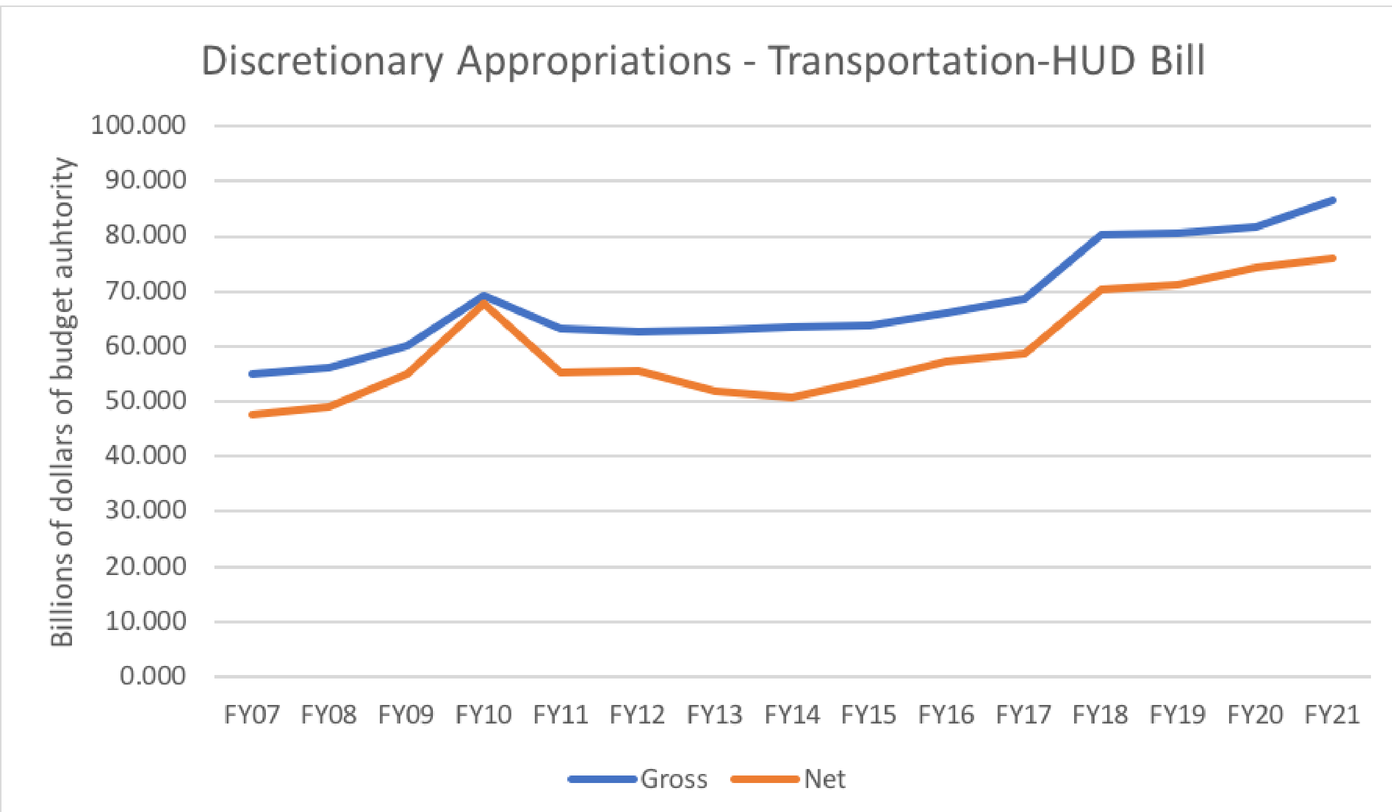
Transportation and HUD.

Within the on-budget discretionary appropriations, HUD is clearly favored over USDOT. As mentioned earlier, USDOT appropriations (gross, before offsetting fees and a handful of rescissions) increase by 0.5 percent in the House bill over 2020. But HUD gross appropriations increase by 8.4 percent over 2020 ($4.75 billion). On a net level, this is masked by a large projected increase in offsetting receipts for mortgage insurance premiums and other housing receipts. But it's the gross money that gets spent, not the net. In billions of dollars:

	FY20 Act	FY21 Bill	Increase	
DOT Gross	24.98	25.10	+0.12	+0.5%
Offsets	-0.15	-0.19		
DOT Net	24.83	24.91	+0.08	+0.3%
HUD Gross	56.54	61.29	+4.75	+8.4%
Offsets	-7.45	-10.71		

HUD Net	49.09	50.58	+1.49	+3.0%
Related Ag.	0.37	0.43	+0.06	+16.8%
THUD GROSS	**81.89**	**86.82**	**+4.93**	**+6.0%**
THUD NET	**74.29**	**75.92**	**+1.63**	**+2.2%**

The total discretionary appropriations in the bill, excluding the emergencies in title V, are $86.82 billion gross and $85.92 billion net. These numbers compare with the enacted totals from fiscal 2007 (the first year of the current Transportation-HUD subcommittee bill jurisdictional lineup) to 2020, using CBO scoring, in the chart below.



(*Ed. Note:* It took Donald Trump as President and a Republican Congress to get THUD spending back over Peak Obama (FY10), with the cap increases in the 2018 budget deal, and then the additional cap increases from the 2019 budget deal have pushed 2020 and 2021 well above that peak.)

Highway Trust Fund.

In a normal year, the bulk of USDOT funding would be provided in the form of Highway Trust Fund contract authority, which is provided by authorization bills, not by appropriations bills. But the annual appropriations bills since 1976 have have contained "obligation limitations" on how much of that contract authority can be obligated (by signing a contract or grant agreement or allowing an employee to come to work) in a given fiscal year.

The House bill meets the obligation limitations for FY 2021 for Highway Trust Fund contract authority contained in the INVEST Act, generally speaking (see table below, in millions of dollars, which is based on INVEST as reported from committee – the version of the bill as amended and passed by the House is not online from GPO yet so we are waiting to update our table until we get that document). We are not sure why the small discrepancies in the highway and motor carrier ob limits are there.)

		INVEST Act	Draft Bill
HTF Obligation Limitations			
FHWA	Federal-aid Highways	61,110.0	61,130.0
FMCSA	both accounts	885.7	880.7
NHTSA	both accounts	1,026.1	1,026.1
FTA	Transit Formula Grants	15,945.2	15,945.2
	TOTAL OB LIMITS	**78,967.0**	**78,982.0**

These ob limits are far greater than the fiscal 2020 ob limits – the highway limitation is $14.5 billion above 2020 and the transit limitation is $5.8 billion above 2020. But if a reauthorization bill providing all that extra money isn't signed into law before the appropriations bill, the higher funding levels will be meaningless for transit and the safety agencies since there won't be underlying budget authority to obligate. (The higher ob limits could conceivably increase highway funding under a flat-line authorization extension by allowing states to spend down more balances, but we don't have any info on that yet.)

Generally speaking, however, the final DOT appropriations bill for 2021 will need to be reconciled with whatever Highway Trust Fund authorization extension is put in place by September 30, which may not look much like the INVEST Act. (We should know more about Highway Trust Fund balances and projected insolvency dates by then as well.)

Airport and Airway Trust Fund.

The House bill protects the Airport and Airway Trust Fund, the tax receipts for which are currently suspended because of the COVID-19 crisis. The House bill continues to draw $3.35 billion per year in funding for the Airport Improvement Program (contract authority fulfillment only) from the AATF, and the mandatory side of the Essential Air Service program, which is funded entirely by overflight fees, continues to be run through the Trust Fund.

But whereas in 2020 Congress appropriated $10.5 billion from the Trust Fund for FAA Operations and appropriated an additional $3.2 billion for FAA capital and R&D from the Trust Fund, the 2021 bill appropriates zero dollars from the Trust Fund for these programs (it all comes out of the general fund). As a result, total appropriations from the Trust Fund drop from $17.3 billion in 2020 to $3.5 billion in 2021 under the House bill.

The AATF had about an uncommitted balance of about a year's worth of spending at the start of the COVID crisis, which won't be entirely gone by September 30, and the switch of the Ops, F&E, and RE&D accounts to 100 percent general fund for 2021 will give Congress time to decide what to do about the Trust Fund's finances in the long term.

Modal Breakdown

Intermodal grants (BUILD).

While the House bill maintains funding for the BUILD grant program (formerly known as TIGER) at $1.0 billion, the same as last year and $100 million more than fiscal 2019, the bill proposes a few key changes. First, the amount of money available for construction grants would actually decrease by $25 million from last year, because the 2021 House bill would cause more money to be set aside off the top for planning grants (not construction grants). Planning grants for any area would grow from $15 million in the 2020 law to $20 million in the 2021 bill, and the House bill also adds a second set-aside for $20 million for planning grants only to areas of persistent poverty.

	FY 2020 Enacted	FY 2021 House Bill
Total appropriation	$1.000 billion	$1.000 billion
Oversight set-aside	[-$25 million]	[-$25 million]
Remainder for grants	$975 million	$975 million
Set-aside for planning grants (any area)	[-$15 million]	[-$20 million]
Set-aside for planning grants (areas of consistent poverty)	[zero]	[-$20 million]
Remainder for construction grants	$960 million	$935 million

Second, while the House bill retains the proviso (in use starting in fiscal 2017) that limits any state's total grant awards in that year to 10 percent of the total appropriation (i.e. $100 million), the bill adds a new escape clause – projects for "port infrastructure investments (including inland port infrastructure and land ports of entry)" are exempt from the single-state $100 million FY21 cap.

Third, the new bill amends the definition of a urban and rural projects. In the 2020 law, an urban project was defined as a project located "within or on the boundary of an Urbanized Area (UA), as designated by the U.S. Census Bureau, that had a population greater than 200,000 in the 2010 Census…" Any project that did not meet those conditions was automatically a rural project.

The House bill increases that 2010 Census population threshold from 200,000 to 250,000. Per the 2010 Census, thirty cities and towns would be reclassified from urban to rural for purposes of the BUILD program by the House bill.

This matters because the House bill, like the 2020 law and the laws dating back to 2017, uses different size and share criteria for urban and rural grants. Urban grants must be between $5 million and $25 million and the federal share of such a grant cannot exceed 80 percent of project cost. Rural grants have a minimum size of $1 million (same maximum) and can fund up to 100 percent of a project's cost.

The 30 cities and towns being reclassified from urban to rural by the bill include the home town of House Transportation and Infrastructure chairman Peter DeFazio (D-Eugene, OR) and the most populous city in the home state of Senate Transportation-HUD chairwoman Susan Collins (R-ME).

Atlantic City, NJ	248,402
Eugene, OR	247,421
Barnstable Town, MA	246,695
Tallahassee, FL	240,223
Conroe--The Woodlands, TX	239,938
Lubbock, TX	237,356
Salem, OR	236,632
Laredo, TX	235,730
York, PA	232,045
Evansville, IN--KY	229,351
Nashua, NH--MA	226,400
Wilmington, NC	219,957
Visalia, CA	219,454
Killeen, TX	217,630
Brownsville, TX	217,585
Appleton, WI	216,154
Myrtle Beach--Socastee, SC--NC	215,304
Concord, NC	214,881
Thousand Oaks, CA	214,811
Aberdeen--Bel Air South--Bel Air North, MD	213,751
Hickory, NC	212,195
Kennewick--Pasco, WA	210,975
Roanoke, VA	210,111
Kalamazoo, MI	209,703
Norwich--New London, CT--RI	209,190
Gulfport, MS	208,948
Green Bay, WI	206,520
Portland, ME	203,914
Huntington, WV--KY--OH	202,637
Winter Haven, FL	201,289

Fourth, the bill changes the required mix of urban and rural projects. In response to the Trump Administration's tilting the scale to favor rural projects (which they say is to make up for the previous Administration favoring urban projects), the 2020 law decreed a 50-50 split for 2020 grants between urban projects and rural projects. The House bill changes that to 60 percent urban, 40 percent rural.

	FY 2020 Enacted	FY 2021 House Bill
Definition of urban area (2010 Census pop.):	200,000 and up	250,000 and up
Pct. of total grant awards to urban projects	Max of 50 percent	Shall be 60 percent
Pct. of total grant awards to rural projects	Max of 50 percent	Shall be 40 percent
Urban grant sizes	\$5 to \$25 million	\$5 to \$25 million
Rural grant sizes	\$1 to \$15 million	\$1 to \$25 million
Urban grants – max. federal share	80 percent	80 percent
Rural grants – max. federal share	100 percent	100 percent

Fifth, BUILD grants apparently take so long to spend that the appropriators are changing the rules retroactively. The 2020 appropriation for the program was available for obligation for three fiscal years (2020, 2021 and 2022), and if not obligated by September 30, 2022, would vanish in a puff of smoke. Previous years' appropriations also had that three-year timetable. The appropriation in the House's fiscal 2021 bill would be good for six fiscal years (2021 through 2026). Then, section 106 of the bill reaches back and effectively amends the fiscal 2017, 2019, 2019 and 2020 TIGER/BUILD appropriations to extend their availability deadlines as well – retroactively for 2017 to give that money one extra year, then the 2018 and 2019 appropriations are given two extra years each, then the 2020 appropriation goes from a three-year availability to a six-year availability. (Technically, the old appropriations laws aren't being amended – whatever is left of the prior appropriations are repealed by section 106 and then the money is reappropriated with the new timeframe under all the old conditions.)

The remainder of the 2021 BUILD program in the House bill appears identical to last year.

Highways.

The House bill provides a highway obligation limitation of \$61.13 billion, much of which won't actually be usable unless the House's INVEST in America Act is also enacted providing that much contract authority to be limited. The obligation limitation paragraph provides (like the INVEST Act) that "for amounts subject to the obligation limitation under this heading during fiscal year 2021, the Federal share of activities undertaken pursuant to chapters 1 or 2 of title 23, United States Code shall be, at the option of the State, District of Columbia, territory, Puerto Rico, or Indian Tribe, as applicable, up to 100 percent…" (Except for advance construction activities and INFRA grants.)

The House bill also appropriates an even \$1.0 billion from the general fund for additional highway programs. This is down from \$2.17 billion in fiscal 2020 and \$3.25 billion in fiscal 2018. (And its presence in the bill at all should be taken as a sign that the appropriators are not at all confident that INVEST and its \$61 billion Highway Trust Fund program level will be enacted.)

The bulk of the \$1 billion (\$632 million) would be distributed to states via formula (per the state shares of FY21 highway obligation limitation distribution) for any purpose eligible under the Surface Transportation Block Grant Program (23 U.S.C. §133) – not subsection §133(b)(1), as in last year's law, but any purpose under the entirety of §133, which includes transportation alternatives. In addition to §133 eligibility, a state can also use its share of the $632 million to "provide necessary charging infrastructure along corridor-ready or corridor-pending alternative fuel corridors designated pursuant to section 151 of title 23, United States Code…"

The $1 billion is programmatically distributed as follows (in millions of dollars, compared to the fiscal 2018, 2019 and 2020 appropriations and the fiscal 2021 request):

	FY 2018 Enacted	FY 2019 Enacted	FY 2020 Enacted	FY 2021 Request	FY 2021 House
Federal-Aid Highways	**2,525.0**	**3,250.0**	**2,166.1**	**0.0**	**1,000.0**
Formula – §133(b)- STBGP	1,980.0	2,729.0	781.1	0.0	632.2
Bridge Replace./Rehab. Grants	225.0	475.0	1,150.0	0.0	0.0
Appalachian Develop. Highways	0.0	0.0	100.0	0.0	100.0
Significant Fed. Lands/Tribal	300.0	25.0	70.0	0.0	150.0
Puerto Rico Highways	15.8	16.0	3.5	0.0	3.2
Territorial Highways	4.2	5.0	1.5	0.0	0.6
Accel. Digital Construction Manage.	0.0	0.0	0.0	0.0	15.0
Regional Infra. Accelerator Demo	0.0	0.0	5.0	0.0	12.0
Nat. Road Network Pilot Program	0.0	0.0	5.0	0.0	5.0
Tribal Road Safety Research	0.0	0.0	0.0	0.0	2.0
Competitive Grade Crossing Grants	0.0	0.0	50.0	0.0	50.0
Tribal Transportation Program	0.0	0.0	0.0	0.0	30.0

In addition to all this, the usual $739 million in Highway Trust Fund contract authority is made available completely outside the appropriations process. The House bill also reiterates several general provisions from prior years (advance notice of USDOT discretionary grants and loans, advance notice of Buy America waivers, reprogramming of earmarks more than 10 years old that have not advanced).

Mass transit.

The House bill increases the obligation limitation on Transit Formula Grants to $15.945 billion, far above the fiscal 2020 enacted $10.150 billion limitation. However, the increase is dependent on the INVEST Act providing the increased contract authority (or, more accurately, any extension of the program authorization providing any contract authority at all). The obligation limitation paragraph provides that "until September 30, 2021, for amounts subject to the obligation limitation under this heading during fiscal year 2021, the Federal share of costs for any grant made for activities undertaken pursuant to chapter 53 of title 49, United States Code, shall be, at the option of the recipient, up to 100 percent but solely for funds that have not been obligated to a grant prior to September 30, 2020." (This 100 percent share does not apply to competitive grants.)

The limitation paragraph also allows transit formula aid recipient to shift up to 50 percent of their unobligated non-CARES pre-FY21 apportionments (as of September 30, 2020) into fiscal 2021.

The bill also appropriates $510 million from general revenues to supplement programs under the Transit Formula Grants account, the same overall amount as last year. However, unlike last year, the House bill does not dedicate any of that $510 million to formula programs (the thinking being, we presume, that the formula increases under the INVEST Act would be plenty). Instead, almost all of the $510 million under the House bill would go towards discretionary bus grants (either regular buses or low-no emission buses).

The breakdown of the House's $510 million additional transit appropriation, compared to prior years and the budget request, is below, in millions of dollars.

	FY 2018 Enacted	FY 2019 Enacted	FY 2020 Enacted	FY 2021 Request	FY 2021 House
Transit Formula Grants	**834.0**	**700.0**	**510.0**	**0.0**	**510.0**
Formula – §5337 – SOGR	400.0	263.0	0.0	0.0	0.0
Formula – §5307 – UZA	0.0	0.0	0.0	0.0	0.0
Formula – §5340(d) – High Density	30.0	40.0	40.0	0.0	0.0
Formula – §5311 – Rural	0.0	40.0	40.0	0.0	0.0
Formula – §5339(a) – Buses	209.1	160.0	168.0	0.0	0.0
Discretionary – §5339(b) – Buses	161.4	160.0	170.0	0.0	374.0
Discretionary – §5339(c) – No/Low Bus	29.5	30.0	75.0	0.0	125.0
Discretionary – §5307(h) – Ferries	0.0	0.0	0.0	0.0	10.0
Bus Testing Facilities	4.0	7.0	3.0	0.0	0.0
Innovative Mobility Solutions §5312	0.0	0.0	5.5	0.0	1.0
Areas of Persistent Poverty	0.0	0.0	8.5	0.0	0.0

The House bill provides $2.175 billion for the Capital Investment Grants (CIG) program – $197 million more than last year, but a far cry from the $3.26 billion authorized by the House's INVEST Act for 2021. (The House bill does have another $5.0 billion in CIG funding in the emergency title of the bill, but that is subject to the President's effective line-item veto of the emergency designation.) CIG funding goes for four types of projects:

- *New Starts* (new fixed guideway systems or new extensions of existing systems). The total amount required for the fiscal 2021 installments of projects with signed grant agreements (including L.A. Westside section 3, signed after the budget was submitted by the White House) is $845 million, and the House bill provides $405 million more than that for potential new projects, totaling $1.458 billion.
- *Core Capacity Projects* (increasing maximum ridership capacity on existing fixed guideway systems). The two core capacity projects with ongoing grant agreements need $100 million apiece during 2021; the budget provides an additional $325 million, which is in addition to $749 million

in unallocated core capacity money from 2020 and prior years. The two projects in the "pipeline" that could take most of that money, if they get their grant agreements, are BART Transbay Corridor and Portal North Bridge replacement.

- *Small starts* (fixed guideway projects with a total capital cost under $300 million, a CIG share of less than $100 million, and which are usually funded out a single year's appropriation). FTA recently allocated funding to several more small starts, taking the unallocated funding from fiscal 2020 and prior years for these down to just $63 million. The House bill would provide another $300 million.
- *Expedited project delivery pilot program* (under section 3005(b) of the FAST Act). $225 million has been appropriated for this program so far (since its creation in December 2015), and the House bill would add an extra $100 million in 2021 appropriations. The BART Silicon Valley Phase II project has, to date, been allocated $125 million out of that $225 million.

Federal CIG Appropriations, FY 2016 Enacted through FY 2021 House Bill

	5309(d) New Start	§5309(e) Core Capacity	§5309(h) Small Start	Expedited Delivery Pilot	Oversight Set-Aside	TOTAL
FY16 Enacted	1,747.0	50.0	353.0	5.0	22.0	2,177.0
FY17 Enacted	1,744.8	332.9	407.8	20.0	25.0	2,530.5
FY18 Enacted	1,506.9	715.7	400.9	0.0	26.5	2,650.0
FY19 Enacted	1,265.7	635.0	526.5	100.0	25.5	2,552.7
FY20 Enacted	1,458.0	300.0	100.0	100.0	20.0	1,978.0
FY21 House	1,250.0	525.0	300.0	100.0	0.0	2,175.0

(As you can see, the House bill does not include any funding for FTA oversight activities in the CIG program (the underlying statute says they are supposed to set aside 1 percent of the total appropriation). At the subcommittee markup on July 8, chairman David Price (D-NC) said that the $2.175 billion for the program would be enough to ensure all projects currently in the CIG development "pipeline" can move forward in 2021.

The House bill repeats all of the FY20 bill language for the CIG account but adds this new bit: "funds made available under this heading in this or any other Act may be available for amendments to current full-funding grant agreements that require additional Federal funding as a result of coronavirus…"

The House bill also provides $121 million for FTA administrative expenses (the exact amount requested), and $7 million for Technical Assistance and Training. And the bill once again provides a special appropriation of $150 million for the D.C.-area WMATA transit system despite the fact that the authorization for that funding ran out two years ago.

When it comes to the general provisions, the House bill repeats the seven numbered GPs from the 2020 law (including suspension of the Rostenkowski Test on Mass Transit Account self-sufficiency for another year), and then adds a new one: “None of the funds made available in this Act may be used by the Department of Transportation to implement any policy that requires a capital investment grant project to receive a medium or higher project rating before taking actions to finalize an environmental impact statement.”

Rail.

The House bill appropriates $3.032 billion for the Federal Railroad Administration in 2021 (reduced by the $36.6 million rescission of old balances requested by the Administration to $2.996 billion). This is $202 million more than last year (though slightly less than the FY 2018 appropriation). It is, however, a far cry from the $12.4 billion suggested by the INVEST Act for FRA appropriations in FY 2021, so the House bill adds another $13.1 billion in FRA appropriations in title V of the bill (subject to the President’s effective line-item veto of that emergency spending).

As usual, the lion’s share of the money goes to Amtrak – $750 million for the Northeast Corridor and $1.300 billion for the National Network. The NEC appropriation is a $50 million increase over 2020 while the NN appropriation is frozen at last year’s level.

For the NEC grants, the House bill maintains the $5 million set-aside for the costs of the NEC Commission, and there is a new set-aside of $200 million for “advance capital projects, including rehabilitation and upgrade of railroad infrastructure, that increase reliability or expand passenger rail capacity on the Amtrak-owned portion of the Northeast Corridor…on which more than 380 trains traveled per day in fiscal year 2019…” (The latter certainly sounds like Gateway.)

For the National Network grants, the usual $2 million is set aside for the expenses of the State-Supported Route Commission, and the bill retains the prior year language to keep Amtrak from shutting down the Southwest Chief.

The annual set-aside from both Amtrak accounts combined to bring NEC stations to Americans with Disabilities Act compliance goes up from last year’s $50 million to $75 million.

The CRISI grant program receives a significant funding boost under the House bill, from last year’s $325 million up to an even $500 million. Of that, $90 million is set aside for advance capital projects to support eventual new intercity rail service (up from $45 million in the 2020 law), $60 million is set aside for grade crossing improvements, and $25 million is set aside for “capital projects and engineering solutions targeting trespassing.”

The Federal-State Partnership for a State of Good Repair program gets a $200 million appropriation in the House bill, the same as last year. There are two new provisos in this year’s appropriation. One makes “expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, environmental studies, and acquiring rights-of-way) of a capital project” eligible for funding “independently or in conjunction with proposed funding for construction.”

The other, more troublesome proviso states that 49 U.S.C. §24911(d)(1)(C) shall not apply to the appropriation. The section being waived is the one that tells FRA to take into account "the applicant's past performance in developing and delivering similar projects, and previous financial contributions" when deciding whether or not to give out a grant. The clear implication is that the House committee wants FRA to give money to an unnamed applicant who has screwed up a project in the past.

The House bill gives $5 million for maglev demonstration (up from $2 million last year), and zero funding for the Restoration and Enhancement Grant program. The FRA operations account is given $121.1 million (the same as the budget request), and Railroad R&D is given $41 million (again, the same as the request).

There is a new rail appropriation within the Office of the Secretary, relating to federal RRIF loans made in cohort 3 from 2009-2015 (identified here). The bill appropriates $70 million so that, "for a direct loan included in such cohort 3 that has satisfied all obligations attached to such loan, the Secretary shall repay the credit risk premiums of such loan, with interest accrued thereon, not later than 60 days after the enactment of this Act or, for a direct loan included in such cohort 3 with obligations that have not yet been satisfied, not later than 60 days after the date on which all obligations attached to such loan have been satisfied."

The Surface Transportation Board receives a gross appropriation of $37.5 million under the House bill, offset with the usual $1.25 million in filing fees for a net appropriation of $36.25 million.

Aviation.

Title I of the House bill provides $18.1 billion for the Federal Aviation Administration in 2021, which is $522 million more than last year. The main account, Operations, receives $11.052 billion under the bill, a $421.5 million increase over 2020. (As noted above, the entirety of the appropriation in the House bill comes from the general fund, none of it from the Airport and Airway Trust Fund, in order to avoid depleting the Trust Fund while it is operating under the COVID-19 tax holiday.)

The Operations money would be split amongst the seven major activities supported by the account as follows:

Thousands of dollars.

	FY 2017 Enacted	FY 2018 Enacted	FY 2019 Enacted	FY 2020 Enacted	FY 2021 Request	FY 2021 House Bill	House Bill vs. FY 2020
Operations							
Air Traffic Organization	$ 7,559,785	$ 7,692,786	$ 7,841,720	$ 7,970,734	$ 8,210,821	$ 8,231,000	$ 260,266
Aviation Safety	$ 1,298,482	$ 1,310,000	$ 1,336,969	$ 1,404,096	$ 1,474,039	$ 1,500,000	$ 95,904
Commercial Space Transportation	$ 19,826	$ 22,587	$ 24,949	$ 26,040	$ 27,555	$ 27,555	$ 1,515
Finance and Management	$ 771,342	$ 801,506	$ 816,398	$ 800,646	$ 836,141	$ 836,000	$ 35,354
Staff Offices	$ 209,101	$ 212,253	$ 215,299	$ 248,304	$ 265,154	$ 265,083	$ 16,779
Security and Hazmat Safety	$ 107,161	$ 112,622	$ 114,165	$ 118,642	$ 124,928	$ 129,000	$ 10,358
NextGen & Operations Planning	$ 60,155	$ 60,000	$ 61,258	$ 61,538	$ 62,862	$ 62,862	$ 1,324
Total, Operations	**$ 10,025,852**	**$ 10,211,754**	**$ 10,410,758**	**$ 10,630,000**	**$ 11,001,500**	**$ 11,051,500**	**$ 421,500**

Within the account, $172.8 million is set aside for the contract tower program (up from $170.0 million last year).

The FAA capital account (Facilities & Equipment) gets $3.045 billion (all from general revenues), the same as last year. We can't tell how that money is subdivided until the draft committee report comes out. Likewise, the Research, Engineering and Development account is frozen at last year's $192.7 million (again, all from the general fund and none from the Trust Fund).

The bill maintains the $3.350 billion obligation limitation on the Airport Improvement Program (matching, dollar for dollar, new contract authority provided from the Trust Fund for the program), and supplements that with $500 million from general revenues ($100 million more than last year). The proposed subdivision of that funding under the House bill, compared with prior years, is shown below.

Thousands of dollars.

	FY 2017 Enacted	FY 2018 Enacted	FY 2019 Enacted	FY 2020 Enacted	FY 2021 Request	FY 2021 House Bill	House Bill vs. FY 2020
Airport Improvement Program							
Grants-in-aid to Airports (From Ob. Limit)	$ 3,185,934	$ 3,179,927	$ 3,175,680	$ 3,169,276	$ 3,174,932	$ 3,164,932	$ (4,344)
Grants-in-aid to Airports (GF Supplement)	$ -	$ 995,000	$ 475,000	$ 398,000	$ -	$ 497,500	$ 99,500
Office of Airports (TF and GF)	$ 107,691	$ 116,863	$ 137,600	$ 118,500	$ 119,402	$ 121,902	$ 3,402
Airport Technology Research	$ 31,375	$ 33,210	$ 33,210	$ 39,224	$ 40,666	$ 40,666	$ 1,442
Airport Cooperative Research	$ 15,000	$ 15,000	$ 15,000	$ 15,000	$ 15,000	$ 15,000	$ -
Small Community Air Service (to OST)	$ 10,000	$ 10,000	$ 10,000	$ 10,000	$ -	$ 10,000	$ -
Secret Service TFR Airports (GF)	$ -	$ -	$ 3,500	$ -	$ -	$ -	$ -
Total, AIP	**$ 3,350,000**	**$ 4,350,000**	**$ 3,850,000**	**$ 3,750,000**	**$ 3,350,000**	**$ 3,850,000**	**$ 100,000**

(In the back of the bill, in title V, there is an emergency appropriation of $2.5 billion for AIP in addition to all this.)

The House bill appropriates $162 million to the Office of the Secretary for the Essential Air Service subsidy program, which supplements the mandatory fee-funded amount of the program that is outside the appropriations process and which is estimated by CBO to be $150 million in 2021. (Of course, that estimate was before coronavirus temporarily eliminated international air travel and thus took a large chunk of those projected overflight fees with it.)

None of the general provisions relating to the FAA in title I of the House bill appear to have changed from the 2020 law.

Safety agencies.

The obligation limitation levels for Highway Trust Fund contract authority for the Federal Motor Carrier Safety Administration and the National Highway Traffic Safety Administration are set at levels matching the amounts recommended by the House-passed INVEST Act, which are a good bit higher than current law. If an authorization bill providing extra contract authority is not enacted, those higher obligation limitations won't actually provide additional funding.

The INVEST and House Appropriations priorities for these safety agencies, compared to the last year of the FAST Act and the enacted fiscal 2020 appropriations act, are shown below, in millions of dollars.

	FY 2020 FAST Act Contr. Auth.	FY 2020 Enacted Ob. Limit.	FY 2021 INVEST Contr. Auth.	FY 2021 House Ob. Limit.

NHTSA				
§402 Highway Safety Programs	279.800	279.800	384.800	384.800
§403 Highway Safety R&D	149.800	149.800	165.112	165.112
§404 High Visibility Enforcement	30.500	30.500	49.702	49.702
§405 National Priority Safety Programs	285.900	285.900	390.900	390.900
Chapter 303 National Driver Register	5.500	5.500	5.500	5.500
Highway Safety Grant Admin. Expenses	26.817	26.817	30.086	30.086
TOTAL NHTSA (HTF)	**778.317**	**778.317**	**1,026.100**	**1,026.100**
FMCSA				
§31102 Motor Carrier Safety Assistance	308.700	308.700	389.212	389.212
§31102(l) High Priority Activities	44.900	45.900	59.108	59.108
§31103 CMV Operators Grants	1.000	3.336	1.000	1.000
§31313 CDL Implementation Program	33.200	33.200	56.880	56.880
§31110 Operations and Programs	288.000	288.000	379.500	379.500
TOTAL FMCSA (HTF)	**675.800**	**679.136**	**885.700**	**885.700**

As you can see, the appropriators actually plussed up a couple of FMCSA accounts in 2020 by reprogramming old (pre-FAST) contract authority that had not been used for some reason, but they adhere precisely to the INVEST totals for 2021.

We will know much more after the draft committee report is released, but the bill language itself does set aside $3.3 million of the FMCSA Operations and Programs budget to begin the Large Truck Crash Causal Factors Study. FMCSA is directed by section 131 of the House bill to update its underride guard inspection standards, and section 143 of the bill prevents NHTSA from enforcing its maintenance-of-effort requirements for safety grant applicants (both of which were in the 2020 act). The House bill does not extend the EDL waiver for livestock-hauling vehicles that was included in the 2020 act.

NHTSA isn't just contract authority – funding for vehicle safety activities comes from general revenues, and the House bill appropriates $214.1 million, a $20.1 million increase from last year. To see how that increase is to be spent, we have to wait for the committee report. The House bill also appropriates an additional $10 million for paid-media grade crossing safety announcements and an additional $7 million for grants and pilot programs to reduce DUI fatalities, just as was done in the 2020 act.

The Pipeline and Hazardous Materials Safety Administration receives a total of $289 million in gross budgetary resources under the bill, a $7.5 million increase over 2020. $5 million of that increase is solely because of the increase in the Congressional Budget Office's forecast of the offsetting pipeline and underground gas facility user fees, which the appropriators spend dollar-for-dollar as they are projected to come in (which lowers the PHMSA net budget to $139 million). Out of general revenues, PHMSA operational expenses get a $1.5 million boost and the hazardous materials safety program gets a $1.0 million increase.

Ports and maritime.

The Maritime Administration receives a huge boost in funding under the House bill – $1.25 billion in total appropriations in 2021, compared with $1.05 billion in 2020 – a $197 million increase.

The bulk of that comes in the appropriation for the operations of state maritime academies, which would see an $89 million increase over last year, to $432 million. For the fourth straight year, that figure includes the money to buy a new training ship to be used by the academies (this year, it's Texas's turn, and after 2023, all six state academies will have had their aging training ships replaced).

From the national defense side of the budget, the MARAD Maritime Security Program gets its first funding increase in years – from $300 million to $314 million. In addition, there is a new program created on the defense side of MARAD's budget – $10 million "to establish and maintain a fleet of United States-documented cable vessels as authorized under chapter 532 of title 46, United States Code, to meet the national security requirements of the United States…"

The cable-laying fleet was added to title 46 by the 2019 defense authorization act, and good thing, too. (This author was just reading a book on the history of espionage in the 20th century, and the first thing the Royal Navy did when World War I broke out in 1918 was to cut all of the German overseas telegraph cables, which forced the Germans to use work-arounds, which is how British codebreakers intercepted the Zimmerman telegram and brought the U.S. into the war.)

The House bill also gives an even $300 million to the (relatively) new MARAD port infrastructure improvement grant program, $75 million more than the 2020 appropriation. This program was created by the Appropriations Committees in the fiscal 2019 act. Highlights of the proposed FY21 grant program are:

- Coastal seaports, inland river ports, or Great Lakes ports are eligible, but no more than $25 million of the appropriation can go to inland river ports.
- Projects must be "designed to improve the safety, efficiency, or reliability of the movement of goods into, out of, around, or within a port and located–(1) within the boundary of a port, or (2) outside the boundary of a port, and directly related to port operations, or to an intermodal connection to a port."
- Eligible activities are restricted to improvements to port gates, roads, rail, or berths, as well as fixed landside improvements in support of cargo operations, and necessary utility work.
- The federal share of a project cannot exceed 80 percent of the cost if a grant is over $10 million.
- Unlike last year's act, the House bill adds a new provision declaring that the proceeds of TIFIA or RRIF loans, if repayable from non-federal funds, shall be considered as part of the non-federal share of a project's cost at the request of the sponsor.

The main MARAD operational account gets an $8.8 million increase, and all other MARAD accounts are frozen at the enacted 2020 levels.

Odds and ends.

The salaries and expenses account in the Office of the Secretary got a 9.3 percent increase over 2020

(+$10.7 million), coming in just $1.2 million below the budget request. And the “Build America Bureau” that oversees USDOT credit and discretionary grant programs sees its budget triples, from $5 million to $15.5 million, under the House bill. And the Office of Inspector General receives a 3.8 percent funding increase over 2020, to $98.2 million.