INVEST in America Act (H.R. 3684) Would Set Highway Spending 34% above Baseline and Bring Back Earmarks

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On June 10, 2021, the House Transportation and Infrastructure Committee ordered reported the Investing in a New Vision for the Environment and Surface Transportation in America Act (INVEST in America Act; H.R. 3684). The five-year bill, as reported, would authorize roughly $334 billion for federal highway construction and research programs for FY2022-FY2026. This is a roughly 48% increase, unadjusted for inflation, over the $223 billion provided for highways in the previous five-year authorization (FY2016-FY2020), the Fixing America's Surface Transportation Act (FAST Act; P.L. 114-94). The total represents a roughly 34% increase above current spending adjusted for expected inflation (**Table 1**). H.R. 3684 also would bring back the designation of projects by Members of Congress for the first time since a moratorium on earmarking was imposed in 2011.

Under the bill, base spending in FY2022, authorized in Division A, would be the same as in FY2021 (the one-year extension of the FAST Act, P.L. 116-159), but would be supplemented by an additional $14.7 billion for the Federal Highway Administration (FHWA) to both boost existing highway programs and pay for Member-designated projects (earmarks). The distribution among various FHWA programs in FY2022 would be the same as in FY2021. On its face, this would appear to provide $61.9 billion for highways in that year. However, some of the items included in the list of Member-designated projects are transit projects for which money would eventually be transferred to the Federal Transit Administration.

Section 107 of H.R. 3684 lists 1,473 Member-designated projects. They would receive $5.7 billion of the $14.7 billion in additional amounts provided in Section 103. The remaining $9 billion of additional funds that would be authorized for FY2022 would be available for other purposes. While much of this added money would likely be available for use by the states, Puerto Rico, the territories, and federal land management agencies, it is possible that some could be used to finance earmarks requested by Senators, should the Senate participate in earmarking.

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Table 1. INVEST Act (H.R. 3684) Highway Spending (Obligations) Compared to CBO's Baseline

(Current $ in millions)

	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	Average Annual FY2022-FY2026	FY2022 - FY2026 Total
INVEST Act Obligations		61,882	66,836	67,310	68,441	69,480	66,790	333,949
CBO Baseline Obligations	47,104	47,991	48,924	49,904	50,978	52,052	49,970	249,849
Difference		13,891	17,912	17,406	17,463	17,428	16,820	84,100
% Increase Over Baseline		28.9%	36.6%	34.9%	34.3%	33.5%	33.7%	33.7%

Source: INVEST Act, Congressional Budget Office, CRS calculations.

Notes: CBO Obligations include CBO projected annual obligation limitations plus annual "exempt" obligations of $739 million. INVEST Act obligations are based on obligation limitations in the text of the bill plus $739 million in annual exempt obligations. Totals may not add due to rounding.

The subsequent four years of the authorization (FY2023-FY2026) are set forth in Division B. For these four years, H.R. 3684 would make substantial changes in the programmatic structure of federal highway programs by adding three new formula programs creating new discretionary highway programs. The expansion of discretionary programs means that the proportion of FHWA funding authority that goes to the states via formula would be about 82.5%, down from about 92.5% under the FAST Act. Despite this, the formula highway programs would receive about $50 billion more over the entire five-year life of the INVEST for America Act than they did under the FAST Act.

The bill would deemphasize construction of new highway capacity. It would modify the largest formula highway program, the National Highway Performance Program, to emphasize maintaining a state of good repair on the National Highway System, and would require that states consider whether an operational improvement or transit project would be more cost-effective than a project to add road capacity. A new Reconnecting Neighborhoods Program, which would provide $3 billion in discretionary grants to remediate the barrier impacts of legacy road construction in disadvantaged and underserved communities, appears to be a scaled-down version of a program included in the Biden Administration's larger infrastructure proposal.

The three new formula programs are meant to help mitigate greenhouse gas emissions from surface transportation and also support climate adaptation and resilience policies: $6.3 billion for the Predisaster Mitigation Program, $8.4 billion for the Carbon Pollution Reduction Program, and $4 billion for the Clean Corridors program, which would be distributed by formula for electric vehicle and hydrogen fueling infrastructure. The bill also includes eligibility and policy changes across existing formula and discretionary programs to encourage mitigation and resilience actions in surface transportation and would fund a new Community Climate Innovation Grants discretionary program.

Although the bill would establish a stand-alone $1 billion program to rebuild rural bridges, other programmatic changes would likely have a larger impact on bridge spending. The bridge investment section of the bill would require states to spend no less than 20% of their funds received from the two largest formula programs on bridge repair and rehabilitation. It also would set aside $4 billion of the $12 billion reserved for projects of National and Regional Significance to fund a handful of particular large and complex bridge projects.

The Tribal Transportation Program and the Federal Lands Transportation program would receive significant increases beginning in FY2023, and the Puerto Rico and Territorial Transportation Program would more than double in size. The bill would also provide a large increase in funding for the Department of Transportation's Technology and Innovation Program.

H.R. 3684 emphasizes the "complete and context sensitive street design," mandating that roadway design standards require consideration of all users of roadways, including pedestrians, bicyclists, children, older users, and individuals with disabilities. The bill would provide a $500 million set-aside from the Highway Safety Improvement Program to construct "complete streets" or other safety features for vulnerable road users.

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