
Support inclusion of INVEST in America Act in Senate Infrastructure Deal

Sending Office: Committee on Transportation and Infrastructure

July 20, 2021

Dear Colleague:

I write to share key provisions of the INVEST in America Act that must be considered in any bicameral negotiation prior to the passage of any final infrastructure package, including all Member Designated Projects which will support nearly 1,500 projects in cities, towns, and communities across the country.

This is not just a question of a fair process for Members on our side of the Capitol. America is facing serious challenges—crumbling infrastructure, the threat of climate change, inequality and racial injustice, and foreign adversaries that threaten our domestic workforce and manufacturing sectors. The decisions we make about how we invest in and rebuild our nation’s infrastructure will play a significant role in determining how we confront these challenges. We can’t afford to lock in failed highway-centric transportation policies for another five years.

The INVEST in America Act provides resources for states and communities to tackle transportation greenhouse gas emissions and to mitigate the effects of the climate crisis. It makes a long-overdue commitment to expanding and improving the U.S. passenger rail network—providing Americans with better access to one of the most climate-friendly transportation options. It supports the repair and rebuilding of crumbling bridges, and provides dedicated resources for major bridge projects, off-system bridge repairs, and critical Tribal and rural bridges. The bill strengthens our commitment to safety. It provides resources for those who are too often left behind, including low-income communities, communities of color, individuals with disabilities, Tribes, territories, and communities that lack access to safe and affordable transportation options. Finally, every dollar in the bill is backed by strong labor protections and increased Buy America standards, ensuring that as we rebuild our infrastructure, we can also rebuild the American middle class.

Many of these critical reforms are not included or have not been fully addressed

through the Senate bipartisan infrastructure process. We should reject any effort to categorically exclude the thorough, transparent, and transformational process undertaken by the House.

Please join me in supporting a process that allows for negotiation and input from both chambers as we continue to work to deliver a transformational infrastructure bill.

Sincerely,

Peter A. DeFazio

Chair

SELECT DIFFERENCES BETWEEN H.R. 3684, THE INVEST IN AMERICA ACT AND S. 1931, THE SURFACE TRANSPORTATION REAUTHORIZATION ACT OF 2021, AND S. 2016, THE SURFACE TRANSPORTATION INVESTMENT ACT OF 2021

Prepared by Committee on Transportation and Infrastructure Democratic Staff

July 20, 2021

In light of reports that the Senate Environment and Public Works (EPW) Committee's Surface Transportation Reauthorization Act of 2021 and the Senate Commerce Committee's Surface Transportation Investment Act of 2021 are the base text for the Bipartisan Infrastructure Framework, this memo highlights a selection of key differences.

Member Designated Projects: \$5.6 billion (INVEST) vs. \$0 (Senate EPW bill)

- The Investing in a New Vision for the Environment and Surface Transportation (INVEST) in America Act includes 1,475 Member Designated Projects, from both Democrats and Republicans, at a total cost of \$5.6 billion. This program will help viable projects across the country get the funding they need to make it across the finish line. **The Senate bill doesn't include any Member Designated Projects.**

Climate: \$30 billion (INVEST) vs. \$18 billion (Senate EPW bill)

- The INVEST Act provides nearly \$30 billion in total climate investment through the Highway Trust Fund—this includes a new carbon pollution reduction and resilience formula programs, EV charging funds, and bicycle and pedestrian investments. This is not counting additional climate investments via transit (\$109 billion) or rail (\$100 billion).

- One of the key policies of the INVEST Act is “fix it first,” which requires that any proposal to construct new highway lanes takes into consideration (1) the state of good repair of existing assets; (2) the cost of maintaining a proposed new asset, (3) alternatives to expansions in highway capacity to ensure taxpayer dollars are spent wisely and climate- friendly alternatives are considered. The EPW bill does not include similar provisions.
- INVEST establishes a Carbon Reduction Program tied to a new greenhouse gas performance management measure that provides accountability and transparency. The Senate carbon program does not include similar provisions.
- **INVEST limits transferability out of climate-friendly programs. The Senate EPW bill maintains current law, which allows up to 50 percent of funds to be transferred out of climate programs each year.**

EV investment: \$40 billion (INVEST) vs. \$2.5 billion (Senate EPW bill)

- The INVEST Act provides over \$40 billion for EV charging, \$4 billion (which includes hydrogen fueling) for alternative fueling corridors and over \$36 billion in rebates, grants, and other incentives for EV charging for off-highway corridors.
- INVEST provides EV charging and hydrogen fueling funding through a dedicated formula, while the Senate bill provides just \$2.5 billion for corridor charging, and funds can be diverted to carbon-intensive eligibilities like propane and natural gas.

Complete Streets and Active Transportation Safety

- The INVEST Act provides over **\$10 billion** in guaranteed funding from the Highway Trust Fund for active transportation and complete streets related initiatives. It prevents states from setting safety performance targets that allow for increasing traffic fatalities. It also establishes comprehensive safety planning at the state and local level, ensures funds flow to communities of all sizes, and makes other critical policy reforms to drive traffic fatalities down. Many of these policies are not addressed in the Senate EPW or Commerce bills.
- The total guaranteed funding for active transportation in the Senate proposal is much lower, at \$7.2 billion in contract authority compared to \$10 billion in INVEST.

Equity

- The INVEST Act includes several critical transportation equity provisions that are not included in the Senate bills, including planning and project selection reforms that ensure multimodal access to jobs and services, centering transportation equity in project selection, and requiring consideration of the land use, including affordable housing, served by planned transportation investments. INVEST incentivizes investment in urban and rural persistent poverty communities and increases the federal share for clean air projects that benefit environmental justice communities.

- INVEST establishes a **\$3 billion Reconnecting Neighborhoods program** to retrofit, deck over, or tear down highways and other infrastructure that creates a barrier within the communities that those facilities divide. **While EPW includes a related program (funded at only \$500 million over the life of the bill)**, the Senate is missing key policies included in INVEST designed to reduce displacement and gentrification under the program.
- INVEST includes numerous provisions not included in the Senate bill to ensure the National Highway Traffic Safety Administration's (NHTSA) highway safety programs address equity in traffic safety enforcement. INVEST establishes a **national center for fair and equitable traffic safety enforcement, doubles funding for the grant program to prohibit racial profiling** (commonly known as "Section 1906"), and authorizes \$80 million for a new discretionary grant program for institutions of higher education to establish and operate implicit bias training programs for law enforcement during traffic stops.

Tribes and Territories

- The INVEST Act provides more than **\$4.7 billion** in guaranteed funding to tribes, including \$3.7 billion for the Tribal Transportation Program (TTP) which is **22 percent higher than EPW's authorization level (\$3 billion)**. It also provides tribes with a dollar of obligation authority for every dollar of contract authority authorized to ensure tribes receive every dollar of TTP funding authorized for them. The Senate bill does not include this provision.
- The INVEST Act also provides robust guaranteed funding for U.S. territories—at **\$561 million**, these funding levels are more than twice as much as the Senate EPW bill (**\$239 million**).

Transit: \$109 billion (INVEST) vs. ?

- The Senate has yet to produce a transit title. But **Republicans in the Senate have publicly called for underfunding transit so that it doesn't even get the traditional 20 percent**.
- It's unlikely the Senate transit number will meet INVEST Act levels, including for zero-emission buses, the Capital Investment Grant (CIG) Program, the State of Good Repair program, and urban, rural, and seniors and persons with disabilities formulas.

Rail: \$100 billion (INVEST) vs. \$36 billion (Senate Commerce bill)

- The INVEST Act includes common-sense policy reforms to the rail network that prioritize passenger rail development, passenger rail access, the safety of crew and communities, and fewer blocked railroad crossings—these are not included in the Senate title.
- Despite 50 years of statutory preference for passenger rail, Amtrak routes on host freight railroads continue to suffer from delays and blocked opportunities to

expand service. The INVEST Act maximizes the investments made to improve and increase intercity passenger rail by ensuring better cooperation with freight railroads.

- The INVEST Act seeks to protect family-supporting jobs in the rail workforce from job cuts that harm rail safety and foreign workers operating trains in the U.S.
- The INVEST Act establishes a requirement that rail-highway crossings not be blocked for more than 10 minutes with a focus on the most problematic crossings, while providing freight railroads time to resolve the issues leading to blocked crossings.

Environmental Review and Project Delivery

- The Senate bipartisan framework will likely include provisions that undermine the environmental review process. Any reauthorization of FAST-41 must not undercut environmental protections and must emphasize environmental justice. Project delivery reforms included in the INVEST Act would speed up project approval without undercutting environmental protections.

Labor

- The INVEST Act ensures that federal investment in infrastructure provides good, family-supporting jobs through the most comprehensive and thorough application of Davis-Bacon, 13(c), and rail labor protections.
- The INVEST Act also applies requirements for utilization of registered apprentices and qualified, well-trained workers to over \$15 billion in competitive highway grants, over \$40 billion in electric vehicle charging, and for all bridge construction or repair projects undertaken with federal funds.
- The INVEST Act strengthens transit Buy America standards and protections against state-owned enterprises, including through increased domestic content requirements, closure of existing Buy America loopholes, and enhanced safeguards against predatory state-owned and affiliated manufacturers.