

July 7, 2021

MEMORANDUM

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RE: Investing in A New Vision for The Environment And Surface Transportation (INVEST) In America Act

Background

On July 1, the House has passed H.R. 3684, the INVEST in America Act, a \$715 billion bill that reauthorizes surface transportation programs for five year and makes critical investments to the nation's water infrastructure. The bill passed [221 – 201](#), with just two Republicans, Congressmen Chris Smith (R-NJ) and Brian Fitzpatrick (R-PA), joining Democrats in support of the legislation.

Leading to the floor for consideration, the House removed a key provision that would have established a national pilot for a vehicle mile traveled (VMT) fee, however maintained an increase in funding for state-level VMT pilots. Additionally, the House Ways and Means Committee did not offer a revenue title to support the needs of the Highway Trust Fund (HTF) or provide financing opportunities, instead opting for a bailout from the General Fund.

The amendments agreed to by the House did not affect the \$429.6 billion in HTF contract authority provided by the bill. But amendments did add an additional \$43.8 billion in general fund authorizations for transportation-related programs.

New or increased funding authorizations made by House amendments include:

- \$1.8 billion in additional general fund authorizations for the Federal Highway Administration's Forest Service legacy roads and trails.
- Reauthorization of the FAST Act's Regional Accelerator demo program and the Historic Preservation Fund.
- Supporting highway safety standards and improvements to the Manual on Uniform Traffic Control Devices (MUTCD).
- Increasing transportation equity research from \$2 million to \$8 million annually.
- An additional \$1 billion annually, over five years, in general fund authorizations for the new PRIME railroad grant program.
- A \$36.6 billion electric vehicles division of the legislation.

Prior to the additional funding being added on the floor, the bill included \$343 billion for highways, bridges, and safety projects; \$109 billion for transit; \$95 billion for freight and passenger rail; \$8.3 billion to reduce carbon pollution; \$6.2 billion for mitigation and resiliency improvements; and \$5.7 billion in Member Designated Projects, or more commonly known as earmarks, which Congress brought back earlier this year.

Additionally, prior to floor consideration, the House added three key water bills to the INVEST in America Act. These bills include H.R. 3293 and H.R. 1915, both which ASCE has endorsed, and H.R. 3291.

- H.R. 3293, or the Low-Income Water Customer Assistance Program Act, creates a permanent, nationwide program for low-income water customer assistance and directs the EPA to provide technical assistance funding to states to ensure maximum enrollment of eligible households.
- H.R. 3291 authorizes \$53 billion over 10 years for the Drinking Water State Revolving Fund, as well as \$45 billion to fully replace lead service lines throughout the country.
- H.R. 1915, or the Water Quality Protection and Job Creation Act of 2021, authorizes \$50 billion in wastewater and stormwater infrastructure funding over five years.

House action follows bipartisan action by the Senate Environment and Public Works (EPW) and Senate Commerce, Science, and Transportation (CST) Committees. Senate EPW passed, with unanimous support, the Surface Transportation Reauthorization Act (STRA) of 2021. STRA is a five-year, \$303.5 billion reauthorization of core federal highway and bridge programs. Shortly thereafter, Senate CST introduced, marked up, and passed (25-3) S. 2016, the Surface Transportation Investment Act (STIA). This five-year, \$78 billion authorization provides \$36 billion for rail infrastructure, \$27.8 billion for multimodal investments, and \$13 billion for safety programs. Currently Senate Banking and Finance are working on developing their bills which will include transit program authorization and the all-important pay-for mechanisms to support increased investment. ASCE's full analysis on STRA and STIA can be found [here](#).

Prior to the introduction of the INVEST in America Act, T&I Republicans introduced the Surface Transportation Advanced through Reform, Technology, & Efficient Review (STARTER) Act 2.0. The Republican bill is a five-year authorization and provides \$400 billion in funding for the federal highway, transit, and motor carrier and highway safety programs. STARTER Act 2.0 includes provisions that streamline project delivery, provide states flexibility in project selection, support resilience, and provide HTF revenue solutions. House Republicans introduced the bill to share their surface transportation priorities after negotiations for a bipartisan bill with House Democrats failed.

Finally, it remains unclear the role that the INVEST in America Act will play in Congress' goal to pass a comprehensive infrastructure package, but many are expecting that the House and Senate surface transportation bills will act as a base for a broader infrastructure bill. The White House and 20 bipartisan Senators have reached an agreement over an infrastructure investment framework, but legislative text has yet to be released. With the FAST Act set to expire on September 30, lawmakers must quickly determine path forward to avoid a possible extension.

ASCE's Position

ASCE has submitted a letter supporting the INVEST in America Act. In that letter, ASCE Executive Director Tom Smith applauded the efforts of Chairman DeFazio to bring forward a long-term surface transportation reauthorization. Overall, ASCE is encouraged that the legislation addresses the growing challenges facing our roads, bridges, and transit systems. The bill provides a vital increase in funding levels to address project backlogs, ensures much-needed program stability, and gives added attention to safety, the impacts of climate change, and resiliency. These investments will help address the key issues facing our nation's surface transportation infrastructure and tackle the ten-year \$1.2 trillion surface transportation funding gap that was identified in the 2021 Infrastructure Report Card.

In [Authorization of The Nation's Surface Transportation Program: A Blueprint for Success](#), ASCE included core priorities for FAST Act reauthorization within federal-aid highways, public transportation, highway

traffic and motor carrier safety, rail investment, multimodal transportation, and innovation (including financing tools). Some of ASCE's priorities and successes include:

- **Federal-aid Highways.** ASCE supports the creation of new grant programs that ensure a state of good repair and operational improvements for our nation's roads and bridges; elevate the impacts of climate change, reduce greenhouse gas emission, boost multimodal transportation options, encourage social equity, and reduce congestion; support enhanced resilience to address severe weather and mitigate potential damage; and increased funding for underserved communities including rural and economically disadvantaged communities. Furthermore, the INVEST in America Act includes two key provisions that ASCE has supported— enhanced bridge repair and investment and a new program for resilience.
- **Public Transportation.** ASCE supports language in the bill that prioritizes a transit system vision that is economically efficient, technologically and environmentally sound, and provides connectivity to all communities. Additionally, ASCE was successful in securing increased HTF transit funding and improved land use design for transit system expansion in the legislation.
- **Highway Traffic and Motor Carrier Safety.** ASCE strongly supports the provisions in the title that put to practice the principles of Vision Zero, a road traffic safety strategy that aims to eliminate all traffic fatalities and severe injuries. ASCE is also encouraged to see increased funding for traffic and vehicle safety programs.
- **Rail Investment.** ASCE supports the development, construction, and operation of an expanded passenger rail transportation system within the United States, including advanced technology high speed rail systems and is pleased to see that the bill increases funding for both Amtrak and rail safety programs.
- **Multimodal Transportation.** ASCE supports a strong Federal role in freight mobility and intermodal connectors and is pleased to see that the bill works to improve the national multimodal freight network through including revenue generating tools, increased funding, and addressing environmental and social challenges.
- **Innovation.** ASCE is encouraged that the legislation continues to increase investment in transportation research and technology development. Additionally, ASCE was pleased to see that the bill includes a study of the long-term benefits of alternative HTF revenue solutions, as well as further ITS studies and the creation of a national VMT pilot program. ASCE also supports reforms to the Transportation Infrastructure Finance and Innovation Act (TIFIA) program, as well as innovative financing tools that will amplify direct funding. We were successful in including meaningful reforms that would broaden access of this critical financing tool.

Summary

INVEST in America Act is a five-year, \$715 billion reauthorization of core federal highway, bridge, safety transit, and rail programs. \$592 billion, with \$43.8 billion in general fund authorizations adopted on the floor through amendments passed on the House floor. Topline funding levels include:

- **\$336.3 billion (\$226.5 billion under FAST Act) for the Federal Highway Administration (FHWA)**
 - \$140.5 billion (\$116.3 billion under FAST Act) for the National Highway Performance Program (NHPP);
 - \$65.3 billion (\$58.2 billion under FAST Act) for the Surface Transportation Block Grant Program (STBGP);
 - \$14.4 billion (\$12 billion under FAST Act) for the Congestion Mitigation and Air Quality Program; and

- \$15.4 billion (\$11.5 billion under FAST Act) for the Highway Safety Improvement Program (HSIP).
- **\$108.5 billion (\$61.1 billion under FAST Act) for the Federal Transit Administration (FTA)**
 - \$21.5 billion (\$11.5 billion under FAST Act) for the Capital Investment Grant program
- **\$10 billion (\$6.9 billion under FAST Act) for the National Highway Traffic Safety Administration (NHTSA) and the Federal Motor Carrier Safety Administration (FMCSA)**
- **\$96.6 billion (\$10.3 billion under FAST Act) for the Federal Railroad Administration (FRA)**
 - \$13.5 billion (\$2.5 billion under FAST Act) for Amtrak’s Northeast Corridor;
 - \$18.5 billion (\$5.4 billion under FAST Act) for Amtrak’s National Network; and
 - \$7 billion (\$1.1 billion under FAST Act) for Consolidated Rail Grants.
- **\$5.7 billion in Member Designated Projects (earmarks)**
 - Within this total, \$4 billion was requested by Democrats and \$1.7 billion was requested by Republicans.
 - All earmarked funds are provided in one large sum in FY22 and under the traditional 80-20 federal split.
 - Funding is available indefinitely, but if 10-percent of project funding has not be obligated by October 1, 2025, the state may apply to transfer the unobligated part of the money on other projects in the political subdivision of the state.

Other key sections and programs in the INVEST in America Act include:

DIVISION A—FEDERAL SURFACE TRANSPORTATION PROGRAMS FOR FISCAL YEAR 2022

- Extends fiscal year (FY) 2021 enacted levels for Federal-aid highway, transit, and safety programs through FY22. This will provide all CA for earmarks up front in FY21. CA will first be given to FHWA and then later to FTA, NHTSA, and FMCSA.

DIVISION B—SURFACE TRANSPORTATION

TITLE I—FEDERAL-AID HIGHWAYS

- Revises existing FHWA project reporting requirements about the Federal-aid highway program to make online information more user-friendly. Online project reporting will include detailed data on cost, funding source, status, and location of all projects funded with a total cost of over \$5 million. Lastly, the website must provide an interactive map searchable by project number, state, and congressional district.
- Modifies existing roadway design standards to require consideration of all transportation users including pedestrians, bicyclists, transit users, motorists, freight vehicles, as well as children, the elderly, and those with disabilities. Requires that federal-aid highway plans take into account these context sensitive design principles and that DOT provide additional guidance.
- Increases the federal share (up to 90-percent) for projects that use innovative materials, recycled content, processes that reduce greenhouse gas (GHG) emissions and other pollution, innovative bridge construction technologies, advanced digital construction systems, and work zone safety contingency funds.
- Provides the sense of Congress that states should utilize life-cycle cost analysis to evaluate the total economic cost of a transportation project over its anticipated life. ASCE has strongly advocated for the use of life-cycle cost analysis for infrastructure projects.
- Revises the NHPP to emphasize state of good repair needs identified in the transportation asset management plan before constructing new highway capacity.

- Requires Metropolitan Planning Organizations (MPO) and state-prepared long-range transportation plans include strategies to mitigate and reduce climate impacts and provide a vulnerability assessment of critical transportation assets, evacuation routes, and facilities repeatedly damaged by disasters. The MPO and state must identify projects to address vulnerabilities and these projects are eligible for funding under the new pre disaster mitigation program, authorized at \$6.3 billion over 5-years.
- Requires MPOs to consider carbon pollution and emissions reduction, climate change, resilience, and hazard mitigation throughout the planning process.
- Streamlines bridge project delivery by eliminating the prohibition against using multiple sources of federal funding for one bundle of bridge projects and allows the bundling of bridge resiliency projects. Creates bridge program goals that include improving state of good repair, safety, efficiency, and reliability to reduce the number of bridges at risk or currently in poor condition. Provides \$1 billion over 5-years for discretionary grants to improve the safety and state of good repair of rural community bridges.
- Revises HSIP to require each state to create a vulnerable road user safety assessment as part of its strategic highway safety plan.
- Creates a new carbon pollution reduction apportionment program authorized over five years at \$8.4 billion. Grants will be awarded to projects that reduce GHG emissions.
- Expands Congestion Mitigation and Air Quality (CMAQ) Improvement Program eligibility to include micro mobility projects like bikeshare, shared scooters, and docking stations. Revises the National Highway Freight Program goal to include further consideration of environmental and equity impacts.
- Authorizes the Projects of National and Regional Significance (PNRS) program at \$13 billion over 5-years for large highway, transit, and passenger and freight rail projects that reduce congestion on roadways and that cannot be funded through annual appropriations.
- Creates the Community Transportation Investment Grant Program to support local investments in projects to improve safety, state of good repair, accessibility, and environmental quality through infrastructure investments. The new program is authorized at \$2.4 billion over 5-years.
- Provides \$3 billion over 5-years to remediate economically-disadvantaged and underserved communities.
- HSIP and STBGP funds can be used by local governments, MPOs, or regional transportation planning organizations to advance vision zero plans.
- Creates a new “dig once” provision to ensure better coordination of transportation and broadband infrastructure projects by establishing a task force to estimate the cost of a nationwide “dig once” requirement, and to propose and evaluate options for funding such a requirement. Ensures Task Force consultation with stakeholders that represent rural communities and communities with limited access to broadband infrastructure.
- Directs the GAO to study the equity impacts of per-mile user fee systems, including their impact on underserved communities, access to jobs and services, effects on both urban and rural areas, and impacts on passenger and commercial vehicles.

TITLE II—PUBLIC TRANSPORTATION

- Adds reductions in carbon emissions and improvements to resiliency to the purpose of the federal transit program. Ensures that transit data from FY20, FY21, and the impacts of COVID-19 will not be used to determine transit formula apportionments.
- Provides, over five-years, \$48.7 billion in CA for formula and bus grants.

- Requires DOT to issue best practices to assist transit agencies in defining a “major service change” to comply with Title VI of the Civil Rights Act.
- MPOs must incorporate carbon pollution and emissions reduction, climate change, resilience, and hazard mitigation practices throughout their transit system planning process. Increases the deadline for construction under the emergency relief program to six years.
- Doubles the urban formula low-income set aside from three to six percent and expands formula eligibility to include special attention directed toward urban communities with a poverty rate greater than 20-percent. \$50 million is set aside each year through rural transit formula grants to counties with a poverty rate greater than 20-percent since 1990.
- Requires a GAO study on fare-free transit services across the U.S., including its prevalence and community impacts.
- Creates the Office of Transit-Supportive Communities to provide grants, technical assistance, coordinate transit-housing policies, and incorporate equity strategies. This new office is funded under the Transit Oriented Development Planning grant program, authorized at \$21.5 billion over five-years.
- Authorizes a national advanced technology transit bus development program to facilitate the development and testing of commercially viable advanced technology transit buses that do not exceed a Level 3 automated driving system. The program is funded through the Public Transportation Innovation program and authorized at \$247 million over five-years.
- Streamlines the CIG approval process by increasing the federal cost cap for small starts projects from \$100 million to \$320 million and increases the total cost cap from \$300 million to \$400 million, adds station expansion eligibility to core capacity projects, increases to three years the time projects have to move into the engineering phase, and reestablishes a 80-percent cost cap for all CIG projects.

TITLE III —HIGHWAY TRAFFIC SAFETY

- Creates a new state highway safety program to help educate the public on pediatric vehicular hyperthermia, distribute child vehicle restraints to low-income families, and reduce deaths and injuries resulting from violations of state “move over laws.” The new program is authorized over 5-years at \$1.9 billion.
- \$375 million in general fund authorizations for NHTSA to update its 5-Star rating system.
- Clarifies DOT’s ability to use certain funds for a cooperative program to research and evaluate priority highway safety countermeasures funded over five-years at \$17.5 million.
- Directs DOT to carry out one high-visibility roadway safety enforcement campaign each year dedicated to reducing drunk and drug impaired driving and increase seatbelt use.
- Adds a NHTSA requirement to carry out national traffic safety public awareness campaigns to increase proper seatbelt use, reduce texting while driving, and minimize violations of state “move over laws.”
- Creates a National Priority Safety program funded at \$1.9 billion over five years, which encourages states to develop and implement driver and law enforcement programs to educate both groups on proper traffic stop procedure, in order to reduce the potential for conflict during traffic stops.

- Reauthorizes, at \$75 million over five years, the Sec. 1906 Program, which encourages states to prohibit the use of racial profiling by law enforcement during traffic safety stops and to collect statewide data on motor vehicle stops for analysis.
- Directs GAO to study states' reporting of alcohol-impaired driving arrest and citation results into federal databases and to make recommendations for improving data reporting to DOT.

TITLE IV—MOTOR CARRIER SAFETY

- Authorizes \$2.2 billion in CA from FY23 to FY26 for motor carrier safety grants issued under the FMCSA to assist states in truck and bus safety oversight and enforcement activities. This includes \$1.6 billion for the Motor Carrier Safety Assistance Program, \$300 million for High Priority Activities grants, \$232 million for Commercial Driver's License Program Implementation grants, and \$4.3 million for Commercial Motor Vehicle Operators grants.
- Provides \$1.5 billion for FY23 to FY26 for FMCSA's motor carrier safety operations and programs. Establishes a new incentive grant to encourage states to fully participate in the Performance and Registration Information Systems Management (PRISM) program.
- Requires DOT to review and report to Congress the current state practices regarding annual inspection of passenger carrying commercial motor vehicles to determine which inspection models are most used and evaluate their impact on commercial vehicle safety.

TITLE V—INNOVATION

- Authorizes \$2.2 billion in CA for FY23 through FY26 for core research programs and establishes a new comprehensive research, development, and deployment pipeline to advance the use of greener construction materials. Provides \$701 million over five years for the Highway Research and Development Program.
- Requires DOT to issue a department research and development plan every five years, which should include GHG reduction and workforce issues.
- Provides, over five-years, \$461.5 million for the University Transportation Centers Program and adds FTA to the administration of the program, while increasing the federal share and increasing the maximum grant amounts.
- Reestablishes the Freight Transportation Cooperative Research Program in conjunction with the National Academies. Directs research efforts through an advisory committee consisting of regulators, industry and labor representatives, environmental experts, and safety groups. Research will include freight demand impacts on the environment, safety, and congestion as well as evaluate possible solutions.
- Reauthorizes from FY23 to FY26 a total of \$8 million for the Transportation Equity Research Program to evaluate the impacts of surface transportation planning, investment, and operations.
- Provides \$5 million, from FY23 to FY26, for a new pilot program to encourage MPOs to carry out research activities.
- Provides \$152 million from FY23 through FY26 for the Technology and Innovation Deployment Program. Adds greenhouse gas emissions reduction to the objectives of the FHWA Technology and Innovation Deployment Program (TIDP).
- Provides an emphasis on innovative pavement design, materials, and practices that will reduce GHG emissions. Expands program reporting requirements to include extensive GHG-reducing and resilience factors, such as stormwater management, pavement durability, and energy efficiency.

- Renames the Advanced Transportation and Congestion Management Technologies Deployment (ATCMTD) program to the Mobility through Advanced Technology (MTAT) program. Focuses the program's objectives on mobility, safety, and greenhouse gas emissions reduction.
- Adds consideration of GHG emissions reduction throughout the Intelligent Transportation Systems (ITS) program.
- Creates a national clearinghouse to research the impacts of highly automated vehicles and mobility innovation (Mobility on Demand and Mobility as a Service) on land use, urban design, transportation, real estate, accessibility, municipal budgets, social equity, and the environment. Directs DOT to study how automated vehicles will safely interact with general road users, including vulnerable road users such as bicyclists and pedestrians.
- Provides \$75 million over five-years for the Surface Transportation System Funding Alternatives (STSFA) Program. This state-level Vehicle Miles Traveled (VMT) pilot program directs funding towards implementation of successful state programs. Adds cybersecurity to the scope of the pilot programs.
- Creates an advisory board to help administrator a new five-year national VMT pilot program. Directs DOT to solicit participants from all 50 states and the District of Columbia. Includes passenger and commercial vehicles and provides flexibility to the type of revenue-collection mechanisms used in the pilot program.
- Directs GAO to review how DOT is considering the needs of underserved populations, while awarding funds to Projects of National and Regional Significance program, Community Transportation Investment Grant program, and the Community Climate Innovation Grant program.

TITLE VI—MULTIMODAL TRANSPORTATION

- Revises the National Multimodal Freight Policy, the National Freight Strategic Plan, and State Freight Plan requirements to include consideration of environmental and equity impacts.
- Amends the National Multimodal Freight Network to include ports that have a total annual cargo value of at least \$1 billion.
- Creates a joint task force between the DOT and Internal Revenue Service to study future impacts on developing and implementing a user fee on multimodal freight surface transportation services.

TITLE VII— TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT (TIFIA)

- Streamlines the TIFIA program by raising the threshold above which projects are required to secure multiple credit rating agency opinions and states that the funds secured under a TIFIA loan will be considered part of the non-Federal share of a project.
- Clarifies the criteria under which projects are eligible for the streamlined application process and provides additional funding to allow DOT to waive fees for small projects.
- Modifies reporting requirements to include information on whether a TIFIA project is in an urban or rural area.
- Requires the DOT to issue public monthly status reports on TIFIA applications and projects.

DIVISION C—HAZARDOUS MATERIALS TRANSPORTATION

DIVISION D—RAIL

- Authorizes, over five-years, \$1.6 billion for the Federal Railroad Administration's (FRA) Safety and Operations account and requires a 20-percent increase in safety inspectors, \$100 million for

FRA regional planning processes, \$137.5 million for Amtrak's Office of Inspector General; and \$335 million for FRA's Railroad Research and Development account.

- Provides \$30 million over five-years for the new Passenger Rail Improvement, Modernization, and Expansion (PRIME) grant program. PRIME grants are directed to improve mobility, performance, or growth of high-speed or intercity passenger rail corridors. Priority will be given to projects that incorporate regional planning, have support of multiple states, provide environmental benefits, and improve service to disadvantaged communities.
- Directs DOT to repay the credit risk premium with interest for each Railroad Rehabilitation and Improvement Financing (RRIF) loan made between 2009 and 2015. Repayments must be made no later than 60 days after all obligations attached to each RRIF loan has been satisfied. Over five-years, \$900 million is authorized for DOT to pay the CRP in whole or in part of the loan or loan guarantees.
- Authorizes, over five-years, \$25 billion for a new Bridges, Stations, and Tunnels (BeST) grant program. Funding is used to support major intercity passenger rail bridges, stations, and tunnels.
- Directs DOT to study the safety impacts of trains composed of more than 150 railcars in a variety of terrains and conditions.
- Authorizes, over five-years, \$2.5 billion to build or improve grade crossing separations through the new Highway-Rail grade Crossing Separation grant program.

The following materials have also been made available:

Bill section-by-section: <https://transportation.house.gov/download/the-invest-in-america-act-section-by-section>

Bill text: <https://docs.house.gov/meetings/PW/PW00/20210609/112745/BILLS-117-HR3684-D000191-Amdt-1.pdf>

Bill Fact Sheet: <https://transportation.house.gov/download/2021-invest-in-america-act-fact-sheet>

Member Designated Projects: <https://transportation.house.gov/committee-activity/issue/member-designated-projects>

For questions, please contact the ASCE Government Relations team.

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