

June 4, 2020

MEMORANDUM

RE: Investing in a New Vision for the Environment and Surface Transportation in America (INVEST in America) Act

Background

With the Fixing America's Surface Transportation (FAST) Act set to expire on September 30, Congress has taken steps to reauthorize our surface transportation programs. This week, the House Transportation and Infrastructure (T&I) Committee introduced the Investing in a New Vision for the Environment and Surface Transportation in America (INVEST in America) Act, which was had already been outlined earlier this year as part of Speaker Pelosi's (D-CA) Moving Forward blueprint for infrastructure investment. This legislation is a five-year, \$494 billion, reauthorization of surface transportation programs, making direct investments in our nation's highway, transit, and rail systems. The bill includes \$411 billion, paid for out of the Highway Trust Fund (HTF) over five years for highway, transit, safety, and research programs, which represents a 46% increase from current investment levels. The legislation also focuses on increasing system resilience and environmentally – friendly policies, as well as provisions to invest in automated transportation technology, fund the Vehicle-Miles Traveled (VMT) program, and provide relief from the current COVID-19 pandemic.

House Transportation and Infrastructure Committee Chairman Peter DeFazio (D-OR) has announced that the Committee intends on marking up the INVEST in America Act on Wednesday, June 17th, while House Republicans express disappointment that they were not consulted in the drafting of the bill. The bill is expected to pass out of Committee, with a floor vote in July. Due to the tight legislative calendar and a desire to pass both a surface transportation bill and a Water Resources Development Act before the August recess, the INVEST in America Act could see other House infrastructure priorities attached when it comes to the floor.

Nearly a year ago the Senate Environment and Public Works (EPW) Committee Chairman John Barrasso and Ranking Member Tom Carper introduced, marked up, and voted out of Committee S. 2302, America's Transportation Infrastructure Act of 2019 (ATIA). ATIA is a five-year, \$287 billion, reauthorization. However, the Senate Commerce and Banking Committees continue to draft their portions of the bill which includes the rail, safety, and transit titles. Even more importantly, neither the House Ways and Means Committee or Senate Finance Committee has yet identified how to pay for their reauthorization bill by solving the long-term solvency of the HTF.

Meanwhile, Senate Majority Leader Mitch McConnell (R-KY) has not yet provided either the Senate Commerce Committee or the Senate Banking Committee further direction for their titles, however he has indicated that ATIA would also likely move with the Senate WRDA bill, which passed out of the Environment and Public Works Committee with bipartisan support this spring.

With four months before the FAST Act is set to expire, ASCE will continue to push for bipartisan legislation in the House, as well as for the Senate to complete work on ATIA, and will urge Congress to fix the long-term solvency of the HTF through a 25-cent gas tax increase a tax on electric vehicles.

Summary

The INVEST in America Act provides \$494 billion over five years to make transformative infrastructure investments in surface and rail transportation. Overall, the bill provides \$319 billion for the Federal-aid highway program under the Federal Highway Administration (FHWA), \$105 billion for transit programs under the Federal Transit Administration (FTA), \$5.3 billion for highway safety programs under the National Highway Traffic Safety Administration (NHTSA), \$4.6 billion for motor carrier safety programs under the Federal Motor Carrier Safety Administration (FMCSA), and \$60 billion for rail programs. While many of these programs are under HTF contract authority (CA) and a pay-for solution has not been resolved, ASCE supports the INVEST in America Act's 46% increase from FAST Act funding levels along with the five-year certainty.

Key sections and programs in the INVEST in America Act include:

COVID-19 Response and recovery

ASCE strongly supports relief to transportation agencies needing assistance to combat the impacts of the COVID-19 pandemic. While the bill does not provide the \$50 billion in immediate assistance that state departments of transportation have indicated is necessary to continue operate, the bill does recognize the need for some additional flexibility and allows FY 2021 highway, transit, and safety funds to be made available at 100 percent federal share. Specific provisions include:

- Provides \$83.1 billion in fiscal year (FY) 2021 to states, cities, tribes, territories, and transit agencies to administer programs and advance projects hindered under the current pandemic;
- Includes \$14.7 billion in HTF CA for the FHWA, \$5.79 billion in HTF CA and \$958 million from the General Fund for the FTA, \$244.5 million in HTF CA for the NHTSA, and \$209.9 million HTF CA for the FMCSA; and
- Current Capital Investment Grants (CIG) projects are authorized to receive an increased federal cost share to help ensure projects can move forward.

Federal-aid Highways - \$319 billion is provided for highway investments

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, encourage multimodal transportation options, and reduce congestion; support enhanced resilience to address severe weather and mitigate potential damage; and increased funding for underserved communities including rural communities and US territories. 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. Other provisions related to highways include:

- Requires National Performance Program (NHPP) funds to focus on state of good repair and operational improvements to existing facilities before building new highway capacity;
- Requires that states spend 20% of their NHPP and Surface Transportation Program (STP) dollars on bridge repair and rehabilitation projects supporting nearly \$28 billion in fix-it-first bridge investments over the course of the authorization;

- Increases the off-system bridge set-aside to over \$1 billion per year from \$770 million in current law;
- Establishes a new greenhouse gas emissions performance measure;
- Includes a new program funding at \$8.35 billion over five years to support carbon pollution reduction;
- Expands and provides additional assistance to state-supported passenger rail lines that demonstrate air quality benefits;
- Creates a new program for resilience and emergency evacuation needs funded at \$6.25 billion over five years;
- Requires state and local agencies to develop strategies to mitigate and reduce climate impacts and a vulnerability assessment of critical transportation assets;
- Ensures that wildfires are covered under the definition of natural disaster and provides eligible entities additional time after a disaster to carry out an Emergency Relief (ER) projects;
- Expands system performance and accessibility for underserved communities;
- Provides tolling reform on federal-aid highways by reestablishing a FHWA requirement that the federal agency enters into a toll agreement before allowing tolling on a federal-aid highway;
- Requires states with high pedestrian and bicycle fatalities set aside funds to address safety needs and requires FHWA to adopt design principles to address safety measures;
- Makes the freight formula program fully multimodal, while encouraging environmental considerations in freight planning and allowing states to designate additional freight corridors.

Several discretionary and single year grant programs are provided under this title and include:

- **Projects of National and Regional Significance:** \$9 billion is provided over the life of the bill for large highway, transit, and freight projects that cannot be funded through annual apportionments or other discretionary sources;
- **Community Transportation Investment Grants:** \$600 million per year is provided for local government applicants with broad eligibility for highway and transit projects;
- **Metro Performance Program:** \$750 million is provided over the life of the bill for funding allocations directly to metropolitan planning organizations (MPO) to carry out projects selected by the MPO;
- **Gridlock Reduction Grants:** \$250 million is awarded for reducing urban congestion in large metro areas;
- **Rebuild Rural Grants:** \$250 million is provided for rural communities to address needs on and off the federal-aid system and focuses funding on safety, state of good repair, and access to jobs and services; and
- **Active Transportation Connectivity Grants:** \$250 million is provided for pedestrian and bicycle networks and spines and related planning, including complete streets planning.

Public Transportation - \$105 billion is provided for transit investments

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 INVEST in America Act. Other provisions related to public transit include:

- Increases HTF transit funding over current funding levels and provides support to increase service frequency and ridership;

- Modifies urban and bus formulas to incentivize frequent rail and bus service and provides \$100 million in annual grants to tackle large city street congestion;
- Establishes new, flexible Federal rules to support emerging transportation technologies and encourage transit connections;
- Modifies rural transit formula grants to distribute a greater percentage of funds based on actual transit service provided, while also ensuring additional funds are given to the State Transportation Innovation Council (STIC) program;
- Modifies the CIG program by streamlining the approval process, increasing the cost share back to 80%, encouraging lower cost share, and providing transparency measures in the application process; and
- Provides \$5 billion for formula bus grants.

Highway Traffic and Motor Carrier Safety - \$10 billion is provided for safety investments

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. Other provisions related to highway and motor carrier safety include:

- Provides \$1.9 billion over five years to states for traffic safety, as well as an additional \$2 billion to improve traffic safety in critical areas; and
- Increases funding for truck and bus safety programs under the FMCSA by providing \$4.6 billion over five years.

Rail Investment - \$60 billion is provided in rail improvements

ASCE supports the development, construction and operation of an expanded passenger rail transportation system within the United States, including advanced technology high speed ground transportation (HSGT) systems and is pleased to see that the bill increases funding for both Amtrak and rail safety programs. Other provisions related to rail investment include:

- Increases Amtrak funding from \$8 billion to \$29 billion over five years and allows for improvements to the Northeast Corridor (NEC) and the National Network;
- Creates a new \$19 billion program, the Passenger Rail Improvement, Modernization and Expansion (PRIME) grant program, which is directed towards passenger rail improvements and expansion, performance optimization, and intercity passenger rail transportation expansion;
- Increases the Consolidated Rail Infrastructure and Safety Improvements (CRISI) grant program from roughly \$1.7 billion to \$7 billion to fund passenger and freight rail projects, while also expanding eligibility to allow commuter rail authorities to compete for funds; and
- Provides \$2.5 billion over five years for a new grade separation grant program to help improve safety at rail crossings.

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. Other provisions related to innovation include:

- Increases funding from \$125 million to \$144 million over five years for the Highway Research and Development Program and removes set-asides;
- Provides \$96 million over five years for the University Transportation Centers Program;
- Reestablishes the freight transportation cooperative research program;
- Encourages states to implement Vehicle Miles Traveled (VMT) pilot programs and increases total funding from \$95 million to \$140 million; and
- Establishes a new five-year national VMT pilot program with commercial and passenger vehicles and directs the US Department of Transportation (DOT) to solicit participation from all 50 states and the District of Columbia.

Multimodal Transportation

ASCE supports a strong Federal role in freight mobility and intermodal connectors and is pleased to see that the bill works to finalize a national multimodal freight network. Other provisions related to multimodal transportation include:

- Revises the National Multimodal Freight Policy, the National Strategic Freight Plan, and the requirements for State Freight Plans to include further consideration of environmental and equity impacts;
- Requires a new deadline for the DOT to designate a final National Multimodal Freight Network; and
- Establishes a new joint task force between the DOT and International Revenue Service to study a potential fee on multimodal freight surface transportation services.

Transportation Infrastructure Finance and Innovation Act (TIFIA)

ASCE supports reforms to the TIFIA program, as well as innovative financing tools that will amplify direct funding. Specific provisions related to TIFIA include:

- Streamlines the Transportation Infrastructure Finance and Innovation Act (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.

The following materials have also been made available by the T&I Committee:

Bill fact sheet:

<https://transportation.house.gov/imo/media/doc/2020%20INVEST%20in%20America%20Fact%20Sheet.pdf>

Bill summary:

<https://transportation.house.gov/imo/media/doc/2020%20INVEST%20in%20America%20Bill%20Summary.pdf>

Bill section-by-section:

<https://transportation.house.gov/imo/media/doc/2020%20INVEST%20in%20America%20Act%20Section-by-Section.pdf>

864-page bill text:

<https://transportation.house.gov/imo/media/doc/Final%20Bill%20Text%20of%20the%20INVEST%20in%20America%20Act.pdf>

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