

June 24, 2020

## **MEMORANDUM**

### **RE: Moving Forward Act**

#### **Background**

With the advent of the COVID-19 pandemic and the growing economic impacts from the health crisis, over the past several months Congress has prioritized legislation to provide immediate economic relief. Congress is now shifting efforts from immediate relief to longer-term economic recovery. Over the past several weeks both the House and Senate, as well as the Administration, have discussed utilizing a broad infrastructure package as a vehicle to create jobs and get the economy moving again.

House Democrats are the first to introduce an infrastructure package, building off of their \$760 billion framework from earlier this year, which would have made significant investments in our nation's roads, bridges, transit and rail systems, airports, ports, inland waterways, wastewater, and drinking water systems. H.R. 2, or the Moving Forward Act has been introduced as the legislative vehicle to move many of priorities of House Democrats, including the INVEST in America Act, the five year surface transportation reauthorization that was approved by the Transportation and Infrastructure Committee with a party line vote late last week.

ASCE has strongly advocated for many of the provisions in the Moving Forward Act. Additionally, our recent report detailing COVID-19's impacts to the nation's infrastructure makes several recommendations that are addressed in H.R. 2. These recommendations include providing additional funding for the Airport Improvement Program, reauthorizing surface transportation programs, providing economic relief for water utilities, investing in the nation's schools, promoting resiliency, and connecting new sources of renewable energy to the electric grid. However, the bill once again ignores the long-term solvency of the Highway Trust Fund, instead opting to rely on another General Fund bailout, combined with financing tools to pay for the legislation. Therefore, while ASCE is encouraged that the House is taking a holistic approach to the nation's infrastructure, we urge Congress to come together and develop a bipartisan package that makes long over due investments in the systems that make up the backbone of the American economy. The Moving Forward Act is a strong starting point in these negotiations.

#### **Summary**

On June 22, the House released the text of the Moving Forward Act, H.R. 2. The 2,309 page bill includes the text of the surface transportation reauthorization that passed out of the Transportation and Infrastructure Committee last week, as well as contributions from the Education and Labor Committee, the Financial Services Committee, the Energy and Commerce Committee, the Ways and Means Committee, the Oversight and Reform Committee, and the Natural Resources Committee. The bill represents a \$1.5 trillion investment in the nation's infrastructure, with \$500 billion dedicated to green infrastructure investments.

The bill has been developed and introduced by House Democrats and is expected to be vote on by the full House on June 30<sup>th</sup>. The House Rules Committee has requested all amendments to be submitted by Thursday, June 25 at 10:00 A.M. EDT in order to ensure the bill is completed before the 4<sup>th</sup> of July recess. While the bill is expected to pass the House, Senate Republican leaders have already indicated that it will not be taken up in the Senate and therefore the bill provides insight into the House Democrats position for a negotiated infrastructure and economic recovery deal.

Key sections and programs in the Moving Forward Act include:

### ***Funding and Financing***

- *Highway Trust Fund* - Since the INVEST in America Act authorized over 5 years \$411 billion in HTF spending, the House Ways and Means Committee needed to identify \$140 billion in additional resources to pay for the legislation. Therefore, the Moving Forward Act transfers \$145 billion over 5 years in Treasury general funds (GF) to the Highway Trust Fund (HTF), greater than all GF transfers combined since 2008. Of the \$145 billion total, \$106.7 billion is directed to the HTF Highway Account and \$38.6 billion to the HTF Mass Transit Account. Under pre-COVID-19 HTF five-year revenue projections, this GF transfer would raise the total HTF baseline from \$214.3 billion to \$359.6 billion, increase the Highway Account baseline from \$188.4 billion to \$295 billion, and the Mass Transit Account baseline from \$25.9 billion to \$64.5 billion.

Since 2008, \$140 billion, including \$70 billion under the FAST Act, had been transferred from the GF to the HTF. Despite these transfers, pre COVID-19 projections had indicated a revenue deficit of \$92 billion between FY2021-25, or a yearly average of \$18.6 billion. The COVID-19 pandemic has only made the revenue shortfall worse, with monthly HTF revenue decreasing from around \$4 billion in May 2019 to just \$2 billion in May 2020 – a 49% revenue decline. This includes revenue declines from \$3.5 billion to \$1.8 billion, as well as transit account declines from \$486 million to \$263 million over this same period. Unfortunately, General Fund transfers do not provide the long-term revenue certainty the HTF so desperately needs. ASCE continues to urge Congress to find a long-term HTF revenue solution and has [supported](#) raising the gas tax in the near term to fix the funding shortfall, along with including a tax on electric vehicles.

- *Financing Tools* – State and local governments depend on access to the capital market and issuance of tax-exempt bonds to provide for the nation’s infrastructure. While ASCE continues to support direct funding, we support [financing tools](#) as part of a multi-investment approach that can help state and local governments make strong infrastructure investments. Prior to the elimination of advance refunding in H.R. 1, the Tax Cuts and Jobs Act (TCJA) of 2017, this useful financing tool lowered interest rates on outstanding debt from previous bond issuance and provided state and local governments more investment capital. By reducing debt service expenses through advance refunding, states and localities were able to maximize their borrowing capacity for new infrastructure investment. Between 2012-2017, nearly \$14 billion had been made available through savings from advance refunding and allowed for high borrowing capacity for state and local governments in new infrastructure investments. The Moving Forward Act corrects this harmful TCJA provision to reinstating tax-exempt advance refunding.

Aside from this TCJA correction, the legislation also takes the opportunity to:

- *Reinstate Build America Bonds (BABs) along with infrastructure tax credits.* BABs had been introduced in 2009 under the American Recovery and Reinvestment Act as taxable municipal bonds that featured federal tax credits or subsidies for bondholders or state and local government bond issuers. This program expired in 2010.
- *Raise the state volume cap on Private Activity Bonds (PABs).* To minimize debt, Congress uses an annual state volume cap to limit the amount of tax-exempt bond financing and restricts the types of qualified private activities that would qualify for tax-exempt financing to selected projects defined in the tax code which includes PABs. The legislation increases the annual state volume cap on PABs from the greater of \$75 per capita or \$225,000,000 to the greater of \$135 per capita or \$402,220,000.
- *Increase the cap on PABs issued out of the Build America Bureau.* SAFETEA-LU amended Section 142 of the Internal Revenue Code to add highway and freight transfer facilities to the types of privately developed and operated projects for which PABs may be issued. This change allows private activity on these types of projects, while maintaining the tax-exempt status of the bonds. Current law limits the total amount of such bonds to \$15 billion and is not subject to state volume caps. The Moving Forward Act increases the volume cap from \$15 billion to \$18.7 billion.

### **Transportation**

- *INVEST in America Act* – The Moving Forward Act includes the INVEST in America Act, which was voted out of the House Transportation and Infrastructure Committee on June 18, 2020 by a party line vote of 35 – 25. The INVEST in America Act is a five-year, \$494 billion reauthorization of the nation’s surface transportation programs. 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. The current surface transportation reauthorization will expire on September 30<sup>th</sup>. For more information on the INVEST in America Act, please see our separate [issue memo](#) on the legislation.
- *Airport Improvement Program* - The Moving Forward Act increased the authorization of the Airport Improvement Program (AIP) from \$3.35 billion to \$4 billion annually. In addition to the increased authorization level, the legislation also provides supplemental funding for 5 years based on enplanements. This includes an additional \$3 billion in fiscal year (FY) 2021, \$3.2 billion in FY22, \$3.5 billion in FY23, \$3.7 billion in FY24, and \$4 billion in FY25. This additional funding will be given in grants for airport projects that increase climate resiliency, reduce greenhouse gas emissions, and mitigate airplane noise. FY21 supplemental funding can be spent on AIP eligible projects and on COVID-19 related items and in FY22-25 on all AIP eligible projects. Lastly, the legislation expands AIP project eligibility to projects that increase airport resiliency against earthquakes, hurricanes, flooding, tornadoes, and other natural disasters. ASCE has long [supported](#) an increase in AIP funding and has successfully secured [supplemental funding](#) in recent appropriation cycles.

## **Water**

- *State Revolving Funds* - The Moving Forward Act provides \$40 billion for the Clean Water State Revolving Fund (CWSRF) program and \$25 billion for the Drinking Water State Revolving Fund (DWSRF) program for fiscal years 2021 through 2025. The CWSRF and the DWSRF programs play a vital role in providing states and localities with a critical source of funding for water infrastructure projects through low-interest loans since their original authorizations in 1987 and 1996, respectively. The bill's authorizations for the two programs are significantly higher than the enacted level of funding the programs have received in the past five years; from FY16 – FY20, the CWSRF received about \$7.84 billion, while the DWSRF received slightly more than \$5 billion. [ASCE has consistently urged Congress](#) to triple the amount of funding to these programs.
- *Emerging Contaminants* – The bill provides funding for water utilities to address emerging contaminants per- and polyfluoroalkyl substances (PFAS). PFAS are chemicals found in consumer products such as food packages, cookware, textiles, plastics, and other household products that when accumulates over time can have negative impacts on human health. Up to \$1 billion in grants are made available to wastewater utilities to address PFAS, and a new grant program under the Safe Drinking Water Act is established to help drinking water utilities address PFAS.
- *Creation of Grant Programs* – The bill establishes a \$600 million pilot grant program for alternative water source projects, as well as an increase in authorization for sewer overflow and stormwater reuse grants. Additionally, the bill creates a new grant program for wastewater utilities to assess and address future risks posed by manmade or natural disasters and then carry out watershed, wet weather, and resiliency projects to mitigate these risks.
- *Financing* – The bill unlocks more tax-exempt bond financing for water infrastructure projects by exempting bonds funding these projects from state allocation caps for Private Activity Bonds (PABs).

## **Schools**

- *The Reopen and Rebuild America's Schools Act* - The Moving America Forward Act includes the text of the Reopen and Rebuild America's Schools Act, legislation that would authorize \$130 billion over five years to fund infrastructure improvements for the nation's public schools. The bill would authorize \$100 billion in grants and \$30 billion in bond authority targeted at high-poverty schools with inadequate facilities that pose health and safety risks to students and staff. Bill sponsors estimate that, in addition to addressing poor school facilities, the legislation would create over two million jobs based on an Economic Policy Institute analysis that each \$1 billion spent on construction creates 17,785 jobs. Additionally, the bill would allocate 2020 program dollars on an emergency basis to aid in safely reopening public schools in line with Centers for Disease Control (CDC) public health guidelines by addressing deficient heating, ventilation, and air conditioning (HVAC) systems. Additionally, the bill would mandate a comprehensive national database on the condition of public school facilities, similar to a recommendation in ASCE's [2017 Infrastructure Report Card](#), noting that such a national database currently does not exist and would provide much-needed insight into the condition of our public schools. Finally, the Act would expand access to high-speed broadband to ensure that public schools have the reliable and high-speed Internet access they need for digital learning.

## **Energy**

- *Grid Reliability and Innovation* – The Moving Forward Act provides \$70 billion to improve the resilience, performance and efficiency of the electricity grid. This includes the creation of a research program and a technical assistance program for energy storage and microgrid systems, as well as a technical assistance and grant program to promote Smart Cities, Counties, and Communities clean energy solutions.
- *Solar Installations* – The bill creates a grant program for solar installations located in, or that serve, low-income or underserved areas.
- *Energy Efficiency* - New programs are created and existing programs are amended to fund energy efficiency retrofits to homes, public buildings, and schools. Additionally, the bill requires all federal facilities to cut their energy intensities by 2.5% each year, as well as to lower their water usage.
- *Tax Credits* - The renewable production tax credit (PTC) and the investment tax credit (ITC) are extended, while ITC eligibility is expanded to energy storage projects. It also allows for renewable projects to qualify for master limited partnerships, which is currently only available to fossil fuel projects.
- *Federal Energy Regulatory Commission* – The bill directs the Federal Energy Regulatory Commission (FERC) to issue a report and begin a rulemaking process to increase the construction of interstate transmission lines, which energy experts consider essential to fostering renewable energy growth.

## **Other**

The Moving Forward Act also includes several other pieces of bipartisan legislation that ASCE has endorsed in the past. These bills include the:

- *Outdoors for All Act* - The Outdoors for All Act ([H.R. 4512](#)), which [ASCE has long supported](#), guarantees a source of funding up to \$25 million to expand outdoor recreation opportunities in urban communities and promotes the development of public-private partnerships for such projects. Many of these parks provide dual-use spaces for both recreation and green stormwater management, such as a rain garden, which can soak up millions of gallons of rainwater to reduce combined sewer overflows (CSOs).
- *Resilience Revolving Loan Fund* – ASCE has championed the [Resilience Revolving Loan Fund Act \(H.R. 3779/ S. 3418\)](#) since its introduction in 2019 and it pleased to see it included in the Moving Forward Act. The bill amends the Stafford Act to create a federal program – authorized by the Federal Emergency Management Agency (FEMA) – to provide states with revolving loan funds intended to finance projects that minimize the risk of earthquake, flood, storm surge, chemical spill and other events FEMA deems catastrophic. These would be low-interest funds, which would allow for cities and states to repay the loan with savings from mitigation projects. It also gives states and localities the flexibility to respond to oncoming disasters without paying high-

interest rates so they can invest in their communities – cutting out the need to wait on the federal government.

- *Unlocking the Harbor Maintenance Trust Fund* – The Moving Forward Act contains a provision that allows for the \$10 billion balance of the Harbor Maintenance Trust Fund (HMTF) to be retroactively spent for dredging at our nation’s ports and inland harbors. Earlier this year, the [CARES Act included a provision](#) to allow for all future Harbor Maintenance Trust revenues be spent for dredging, but it did not address the current HMTF balance. Fully unlocking the HMTF – both current and future balances – is in line with [H.R. 2440](#), the Full Utilization of the Harbor Maintenance Trust Fund Act, which [ASCE has long supported](#). The bill also creates a new \$500 million a year smart ports grant program to assist ports with replacing equipment and technology that promotes zero carbon emissions.
- *Broadband* – While this is not an area that ASCE has historically weighed in on, the Moving America Forward Act does include a section on broadband and expanding affordable high-speed internet access to all parts of the country. The bill would authorize \$100 billion to promote competition for broadband internet infrastructure in unserved and underserved communities, prioritizing those with persistent poverty. The goal of the section is to increase connection to remote learning with digital equipment and affordable broadband options, connecting school buses to Wi-Fi, and helping schools and libraries close the “homework gap” outside school. The Act would also establish an Office of Internet Connectivity and Growth within the National Telecommunications and Information Administration (NTIA), the Administration's chief communications policy advisor, to coordinate broadband deployment efforts across agencies.

The following materials have also been made available by House Democrats:

Bill fact sheet: <https://transportation.house.gov/download/fact-sheet-moving-forward-act>

Bill section-by-section: <https://transportation.house.gov/download/sec-by-sec-moving-forward-act>

2,309-page bill text: <https://transportation.house.gov/download/bill-text-moving-forward-act>

*For questions, please contact the ASCE Government Relations team.*

**Caroline Sevier**, Director, Government Relations, [csevier@asce.org](mailto:csevier@asce.org)

**Joe Brady**, Transportation & Aviation, [jbrady@asce.org](mailto:jbrady@asce.org)

**Natalie Mamerow**, Energy, Environment, Water, & Parks, [nmamerow@asce.org](mailto:nmamerow@asce.org)

**Martin Hight**, Resilience, Research & Development, STEM, [mhight@asce.org](mailto:mhight@asce.org)