



MEMORANDUM

To: Sustainable Strategies DC Clients & Associates
From: Sarah Marin, Associate & Client Services Manager
Date: July 1, 2021
Subject: Status Report on Federal Infrastructure Legislation

This memorandum provides a status report on the swirling summer saga in Washington DC, as Congress and President Biden seek to move infrastructure legislation packages forward. The memo outlines the status of the “Invest in America” surface transportation act in the U.S. House (which includes congressionally-directed earmarks); the status of the surface transportation legislation in the U.S. Senate; the attempt to achieve a bipartisan deal among President Biden and key U.S. Senators on a “core infrastructure” package; and the attempt by the President and most Democrats to move a more ambitious and broad-ranging infrastructure package forward using the “budget reconciliation” tool in the Senate, which includes a clean energy/climate package and child/family infrastructure. All of these pieces of legislative action affect one another and, while this memo may be a bit premature as none of these deals are done, we thought it important to let our clients and allies know the current state of play so that you can help influence it. Thus, this memo also asks you to reach out to your congressional delegation, particularly your U.S. Senators, to urge progress on legislation.

Note that each of these proposed legislative packages are comprehensive and detailed, and we are providing only summary-level information for your review. We are happy to work with any local government clients to help you understand the details of these packages.

As a framework, Congress traditionally reauthorizes the surface transportation legislation – for roads, bridges, trails, passenger and freight rail, and ports – every five or six years. The most recent surface transportation reauthorization, known as the FAST Act of 2015, expires on September 30, 2021, so there is pressure to get this done. The real question is, will this “core” surface transportation infrastructure bill be expanded to address the vast backlog on infrastructure investment in many other, non-DOT areas, in ways that will help our local communities emerge from the COVID stronger, more sustainable, more equitable, and more resilient.

HOUSE “INVEST IN AMERICA” ACT

The U.S. House Committee on Transportation & Infrastructure has been working for more than a year on a surface transportation reauthorization and, on July 1, 2021, the full House will take up the legislative package that has moved through that committee. In its most recent version, the bill known as the “[INVEST in America Act](#)” (H.R. 3684), adds drinking water, wastewater, and stormwater funding to this surface transportation bill. The bill moving to the House floor has the following over a five-year period:

- **\$343 billion for Roads, Bridges & Safety with new focus areas on sustainability and equity** – Touted as a 54% increase in federal funding, with an emphasis on fixing existing infrastructure. Includes investments in bridges, electric vehicle charging stations, green infrastructure, transportation activities to reduce climate emissions, and climate resiliency improvements to transportation systems. Shifts investment into walking, cycling, complete streets, smarter road design, and safe routes to schools. Provides \$3 billion in funding to correct transportation design mistakes of the past that have divided poor and minority communities, and targets investment to boost job access and mobility to essential services in areas of persistent poverty, rural communities, and other disadvantaged areas. Of note, there are major investments in new approaches including \$1 billion for “active transportation connectivity” grants, \$500 million annually for “gridlock reduction” projects, \$250 million annually for “community climate innovation” projects, \$600 million annually for “community transportation grants”, and a new “dig once for broadband” policy and program. Tried-and-true, important programs such as Transportation Alternatives Program, Recreational Trails, Safe Routes to Schools, CMAQ, and TIGER/RAISE are re-upped and funded.
- **\$109 billion for Transit** – With a focus on zero-emissions transportation, fleet conversion to cleaner vehicles, and Buy America requirements. Puts high priority on transit-oriented development, and channels investment into persistent poverty and rural communities.
- **\$95 billion for Passenger & Freight Rail** – including tripling funding to Amtrak, investing in high-speed rail, and focusing investment on safety at rail crossings.
- **\$51.25 billion for Wastewater/Stormwater Infrastructure** – This funding will primarily go to State Clean Water Revolving Loan Fund programs, but also puts \$2 billion into stormwater and green infrastructure investment, and makes permanent the “Green Reserve” program created in the 2009 Recovery Act and dedicates funding to those uses.
- **\$117 billion for Drinking Water Infrastructure** – Again, this is primarily a funding mechanism for State Drinking Water Revolving Loan Funds, but also provides \$45 billion to remove lead service lines throughout the nation, \$12 billion to support low-income customers facing difficulty and debt on their water bills, and new programs to deal with emerging pollutants including PFAS.

SENATE “SURFACE TRANSPORTATION REAUTHORIZATION ACT” AND “SURFACE TRANSPORTATION INVESTMENT ACT”

In the Senate, surface transportation legislation has to proceed through multiple committees – the roads/bridges/trails portion goes through the Senate Committee on Environment & Public Works, the passenger rail portion goes through the Senate Committee on Commerce, Science & Transportation, and the transit portion goes through the Senate Committee on Banking, Housing & Urban Affairs (and don't forget Senate Finance on how to pay for it!).

The Senate Committee on Environment & Public Works passed the [“Surface Transportation Reauthorization Act of 2021”](#) with unanimous, bipartisan support. See a summary [here](#). This legislation would provide \$303.5 billion for surface transportation over five years which includes:

- A 34% increase in funding for highways, bridges and trails, including a reauthorization and \$4.8B re-funding of the INFRA competitive transportation grant program;
- \$18 billion in funding for electric vehicle charging infrastructure, a new “PROTECT Grant” for climate-resilient transportation infrastructure, funding for a new “Healthy Streets” program for green streets and green infrastructure, and expanded funding for bicycling and walking facilities, Bus Rapid Transit, intelligent transportation systems, infrastructure to support congestion pricing, diesel engine retrofits, and more. A full 65% of these funds will be suballocated by population to support eligible projects in local communities.
- \$2 billion for a new competitive grant program to support surface transportation projects in rural communities.
- A new \$500 million grant program to reconnect and revitalize communities impacted by past transportation projects.
- Increased funding for Transportation Alternative Programs grants, complete streets, and safe routes to schools projects.

SENATE-PRESIDENTIAL NEGOTIATIONS ON INFRASTRUCTURE PACKAGE

On March 31, 2021 President Joe Biden announced a call for congressional consideration of a \$2.25 trillion “American Jobs Plan” that would include not only surface transportation infrastructure and water/sewer infrastructure, but also major investments in the electric grid, internet and broadband, quality housing, research and development, clean energy jobs and climate mitigation and resiliency, manufacturing and more. See our S² Client Alert memorandum with details on this presidential proposal [here](#).

On April 28, 2021, President Biden introduced an [“American Families Plan”](#), calling for \$1.8 trillion in federal investments in early childhood education, free community college, teachers, high-quality child care, elder care infrastructure, paid family and medical leave, nutrition, tax credits for families, and other programs.

Together, the American Jobs Plan and American Families Plan would be paid for through new taxes on some corporations, high-income individuals, and other fiscal approaches.

The Republican party in Congress essentially called these proposals dead on arrival and stood in opposition immediately, and some moderate Democrats in the Senate expressed the desire to find a compromised, less expensive, bipartisan approach. President Biden conveyed a willingness to negotiate on a lower-cost and more focused program and, over the Spring and Summer of 2021, various Senators from both parties have negotiated with the White House and President Biden directly on a bipartisan path forward.

On Thursday, June 24, President Biden and Vice President Harris joined with a number of U.S. Senators to announce their support for a Bipartisan Infrastructure Framework which was crafted by moderate Republican and Democratic U.S. Senators. The \$1.2 trillion Bipartisan Infrastructure Framework proposes to make critical investments in clean transportation infrastructure, clean water infrastructure, universal broadband infrastructure, clean power infrastructure, remediation of legacy pollution, and resilience to the changing climate.

Unlike the American Jobs Plan, which would be largely paid for from revenues over 10 years from a reversal of some of the Trump era tax cuts, the Bipartisan Infrastructure Framework proposes a combination of closing the tax gap, redirecting unspent emergency relief funds, targeted corporate user fees, and the projected beneficial macroeconomic fiscal impacts of infrastructure investment. There is not yet agreement on whether these proposed pay-fors will cover the deal negotiated.

Despite support from a coalition of Democratic and Republican Senators, this deal still has a long way to go before its possible passage. At present the deal has support, albeit somewhat wavering, from 10 Senate Republicans, which is the number needed to avoid a filibuster in the Senate (with all Democrats supporting too). Those Senators include Richard Burr (R-N.C.), Thom Tillis (R-N.C.), Bill Cassidy (R-La.), Susan Collins (R-Maine), Lindsey Graham (R-S.C.), Jerry Moran (R-Kan.), Lisa Murkowski (R-Alaska), Rob Portman (R-Ohio), Mitt Romney (R-Utah), Mike Rounds (R-S.D.), Jeanne Shaheen (D-N.H.), and Todd Young (R-Ind.). However, much work needs to be done to confirm the approach for paying for the infrastructure deal. And the real issue is whether this focused, bipartisan infrastructure deal will move forward while a broader, Democratic-only “human and climate infrastructure” package moves is crafted via the budget reconciliation approach in the Senate (more on that below).

The Bipartisan Infrastructure Framework includes the following over an 8-year period:

1. **\$109 Billion for Highway**, including roads, bridges, pedestrian/bicycle trails and other transportation infrastructure. This plan provides less than \$124 billion of the \$233 billion provided in the 2015 FAST Act, which covered surface transportation from 2015-2021.
2. **\$49B for public transit**, same as FAST Act of 2015.
3. **\$66B for passenger and freight rail**, compared to \$10B in FAST Act, a large jump in spending for rail infrastructure.
4. **\$7.5B for electric vehicle infrastructure**, intended to target the electrification of city buses and school buses, this program is a brand-new initiative not included in the FAST Act of 2015.

5. **\$20B for infrastructure finance**, primarily through Transportation Infrastructure Finance Act (TIFIA) program, which provides Federal credit assistance in the form of direct loans, loan guarantees, and standby lines of credit to finance surface transportation projects of national and regional significance. Suitable for large, expensive projects that can bear underwriting and transaction cost, infrastructure finance will largely be paid for through “public private partnerships, private activity bonds, direct pay bonds and asset recycling for infrastructure investment.”
6. **\$16B for “Ports and Waterways,”** likely through the U.S. Army Corps of Engineers, and it is a significant figure compared to normal year spending (\$7.65 billion in fiscal year 2020).
7. **\$55 billion for “Water Infrastructure,”** likely including wastewater, stormwater, and drinking water. This sum is more than 10 times annual funding to EPA for these items.
8. **\$21 billion for “Environmental Remediation,”** including funding to hire workers to reclaim abandoned mines and cap abandoned oil and gas wells, to put out-of-work coal miners back into action and remediate brownfield and Superfund sites.
9. **\$47 billion for “Resilience,”** including investments to build efficiency and resilience to climate change hazards likely through the FEMA Building Resilient Infrastructure and Communities (BRIC) program.
10. **\$73B for Power grid**, which may include transmission and distribution lines, energy efficiency and conservation block grant funding to cities, or grants for solar and green energy projects.
11. **\$65B for Broadband infrastructure**, a significant jump in investment that will bring affordable, reliable, high-speed broadband to Americans, including the more than 35% of rural Americans who lack access to broadband at minimally acceptable speeds.

It is not entirely clear yet how these figures in the bipartisan deal match up with the House INVEST Act and the Senate surface transportation infrastructure bills moving in that body now. If this bipartisan deal moves forward, the spending figures in the deal will likely be grafted onto the legislative framework of those House and Senate infrastructure packages to produce a final legislative package that could pass both houses. Senate Majority Leader Chuck Schumer has called for action in the Senate on the bipartisan package in July 2021.

BROADER NEGOTIATIONS ON SENATE BUDGET RECONCILIATION FOR A FAMILIES & CLIMATE INFRASTRUCTURE PACKAGE DIVIDES THE CONGRESS

The fate of the core infrastructure bills moving through the House and Senate, and the current bipartisan deal, are fully intertwined with the more contentious issues of whether the human infrastructure and clean energy/climate infrastructure of the American Jobs Plan and American Families Plan move forward by the Senate “budget reconciliation” tool, which allows passage of spending/tax bills in the Senate by a simple majority vote not subject to filibuster. Assuming no Republicans support such a broader reconciliation package, it will require all 50 Democrats to vote in favor of advancing the legislation, with the Senate President, Vice President Kamala Harris, voting to break the tie.

That scrum is underway now, and the outcome is far from certain. On June 27, Senator Joe Manchin said that he would join in the effort to work on a bigger, separate reconciliation matter, and would support a compromise approach of raising the corporate tax rate to 25 percent and capital gains taxes to 28 percent to help pay for it. However, he has already pushed back on the plan by Senate Budget Committee Chair Bernie Sanders (I-VT) (backed by several Senate Democrats) for up to a \$6 billion price tag for a human/climate infrastructure bill, suggesting that \$2 trillion would be the top range. Meanwhile in the House, Speaker Nancy Pelosi is working to keep unity in her very slim majority, where more progressive members insist on a \$4 billion to \$6 billion budget reconciliation package. The Speaker has also drawn a line in the turf, saying that the House will not take up and vote on the base infrastructure bill unless the Senate moves the broader human infrastructure bill as well. When President Biden echoed that strategy out loud at a press conference it nearly tanked the bipartisan deal, until he personally called the Republicans in that effort to assure them that he supported stand-alone consideration of the bipartisan infrastructure package. We all know that this is already a hot summer, and it might be a long, hot summer.

WHAT SHOULD LOCAL LEADERS DO NOW?

In the midst of this tussle over infrastructure packages, local government leaders should be speaking now with your Members of Congress, particularly your Senators. Local communities are, by far, the most impacted and most benefitted by investments (or lack of funding) in infrastructure to improve transportation, utilities, broadband, brownfields, and smart and clean energy systems. It is your local citizens who will benefit most from investments in education, childcare and elder infrastructure, family and medical leave, nutrition and other key supports.

Please reach out to your congressional district directors, staff contacts in Washington DC offices and, most importantly, your two Senators and your House Member. Think of a couple of examples of key infrastructure projects that could make a real difference in your locality, explain why it has been so hard to fund, and insist that your Members of Congress put aside political point-scoring or concern about the 2022 midterm elections, to get the job done for communities like yours. Sign onto the U.S. Conference of Mayors letter (by July 6) supporting the bipartisan infrastructure deal. If you contact our team at Sustainable Strategies DC, we can help you craft and convey those messages, so please reach out if you are ready to raise your important voices.

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