# In Brief




FEDERAL UPDATE

## It's Infrastructure Week—Again

BY MICHAEL BELARMINO

For many in Washington, D.C., there seems to be a longstanding joke that every week is infrastructure week. It is a topic that is often touted as bipartisan, and this is mostly true. Who could argue against better roads and bridges, safe and clean drinking water, or dependable utilities? Once you get into the messy business of determining what types of infrastructure we need and how to go about paying for it, however, agreement and bipartisanship generally starts to break down. With the 117th Congress moving further into its first year and a new administration, whether we will be able to get over previous hurdles to an infrastructure deal is still unclear. But with one party holding Congress and the White House, and momentum from lessons learned throughout the pandemic, there is renewed hope that we're traveling down a new road this time.

As a frequent topic of debate in Congress that never seems to get off the ground, it is fair to ask what makes the conversation on infrastructure so difficult. First, and most obviously, infrastructure is an oft-used talking point for campaigns that don't always come to fruition. Less obvious is the fact that the overarching theme of infrastructure is not just one conversation but rather multiple, related debates. Two of the main underlying debates are the somewhat regular renewal of federal surface transportation programs and the advancement of any given administration's infrastructure priorities. We will take each in turn and then examine why this time may be different.

## Federal surface transportation programs: a perennial debate

The origins of current federal surface transportation programs go back to the early 1900s, before a single mile of what we know today as our interstate highway system was established. But as members of Congress debated this idea, the questions they tried to answer then have not changed much—what are the needs of the national transportation system, and how are we to pay for them? With respect to the first question, regardless of the issue, identifying and prioritizing needs will likely be a constant topic of debate for federal policymakers. But answering the second question, about paying for the various infrastructure priorities, is now a fairly institutionalized system that is highly dependent on frequent congressional action.

The solution back then was what we now know as the Highway Trust Fund. For decades, federal surface transportation programs were paid for almost entirely by the gas tax that supported the Highway Trust Fund. The tax rates establishing how many cents per gallon motorists will pay have not been increased at the federal level since 1993. Contrast this to the steady decline of tax collections due to improved fuel efficiency and slow growth in vehicle miles traveled, and we are now seeing the consequence of not updating the funding mechanism. The Highway Trust Fund has lacked sufficient funds to support surface transportation programs for over a decade, causing Congress to supplement funding with transfers from the U.S. Treasury's general fund since 2008.

There is no easy solution to fix the funding problem, even though debating whether or not to increase the gas tax is a focal point. Failing to find a solution certainly helps to explain what we've seen from Congress for two decades and counting, with respect to federal surface transportation programs. In place of a lasting solution, Congress has funded federal surface transportation programs through a combination of multi-year authorizations and short-term extensions. For example, the *Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)*, covering 2005 to 2009, saw ten extensions of funding formulas before it was replaced with the *Moving Ahead for Progress in the 21st Century Act (MAP-21)*. The current funding program, *Fixing America's Surface Transportation (FAST) Act*, is already more than halfway through its first one-year extension since it expired at the end of September 2020. Although there have been proposals made and even advanced in each chamber, whether we will see another extension or a new surface transportation act pass before September 30 remains unclear.

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Provided the long history of this stop-gap approach to surface transportation funding, the concept is ripe for any new potential candidate to advocate an approach with long-term features. Enter President Biden and Vice President Harris.

## New administration, new priorities

Regardless of party, every administration is going to have a multi-pronged platform that will include priorities for infrastructure and transportation. The Biden Administration proved no different when the American Jobs Plan was unveiled. Touted as both a jobs and infrastructure plan, the proposal goes beyond just roads and bridges; it also seeks to invest in broadband and schools, and to enhance the infrastructure of our economy by investing in home care workers, manufacturing, and small businesses. Understandably, there are those who oppose such a broad, sweeping view of infrastructure. Although GFOA has not pushed for an exact definition, we have emphasized that infrastructure expands beyond just roads and bridges. We point to the countless services provided by state and local governments and to our public issuer partners in the Public Finance Network to see just how diverse infrastructure can be.

Depending on how the expiring surface transportation act is handled, the rest of 2021 and possibly the remainder of President Biden's current term could be wrapped up in the infrastructure debate. There have been moments in the past when Congress has supported the goals of the sitting administration even without specifically enacting their respective proposals. Arguably, we saw this most recently during the Trump administration, when

Congress increased funding in FY 2019 for existing transportation programs even though the administration sought to create new programs with similar goals. Time will tell how this plays out, but we can anticipate some of the administration's infrastructure priorities addressed in part by Congress's work on a surface transportation package.

### Why this time could be different

There are some differences this time around that could impact how far the infrastructure conversation could advance. The first is the general context within which the debate is happening, in particular because the COVID-19 pandemic forced an unprecedented number of measures like shutdowns and travel restrictions to be implemented over the last year. And as many of us navigated this new norm, there were several infrastructure gaps that were highlighted during the pandemic. For example, the necessity to work and attend school from home for many families underscored the lack of access to broadband to stay connected. As another example, for hygienic purposes the pandemic stressed the need to ensure all households have access to safe and clean water, which only served to highlight that our nation's water infrastructure system is aging and severely underfunded.

The second difference is that we are currently under a unified government. The Democrats have made it clear that a major infrastructure package is a top priority. And there remains another opportunity this year to utilize budget reconciliation—the parliamentary procedure that allows for expedited passage of certain budgetary legislation in the Senate, by avoiding the filibuster and only requiring a simple majority vote. Reconciliation was already used once to pass the American Rescue Plan, so it's almost certain the White House and congressional Democrats will use it for a major infrastructure package, should advancing the infrastructure conversation require partisan efforts.

### Funding versus financing and how GFOA priorities fit

Anytime the discussion turns to infrastructure, especially when engaging your Congressional representation, it provides an opportunity to remind others that there is a difference between funding and financing. The two concepts are often viewed as the same when in reality, infrastructure investment at the local level uses a combination.

Funding is generally in the form of grants from the federal government and is administered through programs under agencies like the Department of Transportation. Funding for these programs is refreshed through the congressional appropriations process, but unfortunately, the share of funding to state and local governments has decreased over the last several decades. So, it is especially important that the market tools state and local governments can use are fully established and accessible to all governments, schools, and political subdivisions.

Until these provisions are successfully enacted into law, you will continue to hear GFOA call on Congress to be true partners in our shared goal of infrastructure investment by enacting provisions that enhance the toolkit for all municipal issuers. Like the tax-exempt municipal bond, these would provide public issuers with lower-cost borrowing options, which ultimately benefit taxpayers. More information on these initiatives can be found on GFOA's website, but as a refresher, they are:

- **Reinstating advance refunding of tax-exempt municipal bonds.** Tax-exempt advance refunding, a valuable cost-saving tool for state and local governments, was eliminated in the 2017 Tax Cuts and Jobs Act. Without this as an option for refinancing debt, state and local governments will pay more in interest over the long term, a cost ultimately borne by the taxpayer.
- **Increasing the bank-qualified (small borrower) limit.** Bank-qualified bonds were created in 1986 to encourage banks to invest in tax-exempt bonds from governments that were less frequent issuers, ultimately expanding access to lower-cost borrowing for small municipalities.

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- **Reviving direct-pay subsidy bonds.** Direct-pay bonds are taxable debt securities issued by a state or local government to finance capital expenditures offset by direct subsidies paid to the issuer. A previous iteration of this tool was Build America Bonds, which offered the option of a 35 percent subsidy paid to the bond issuer. Any future revival would need to include sequestration-proof language to protect the subsidy payments.

Our municipal bond champions in Congress, including: Representatives Dutch Ruppersberger (D-MD-2), Steve Stivers (R-OH-15), and Terri Sewell (D-AL-7), and Senators Debbie Stabenow (D-MI) and Roger Wicker (R-MS), have reintroduced their bills addressing one or more of the priorities above. Whether they advance in an infrastructure package or part of something else remains to be seen. In 2020, the House passed a large-scale surface transportation package (H.R. 2—the Moving Forward Act) that included these public finance priorities. This was a result of the commitment from our champions and growing bipartisan support on Capitol Hill, clearly showing that GFOA priorities are on solid ground.

### Conclusion

Although one cannot accurately predict what will happen for infrastructure this year, there are strong indications that legislation will pass before the end of 2021. All eyes will be on the Senate as the narrow margin held by Democrats is bound to affect the size of the infrastructure package. But a unified government coupled with a broad desire to rejuvenate facets of our economy in order to deal with the pandemic's impact is providing strong momentum. Capitalizing on previous advances of municipal bond provisions should certainly provide public finance officers with confidence that we may be able to finally tag along for the ride to the president's desk.

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