

THE USE OF TIFIA AND INNOVATIVE FINANCING
IN IMPROVING INFRASTRUCTURE TO ENHANCE
SAFETY, MOBILITY, AND ECONOMIC OPPOR-
TUNITY

HEARING
BEFORE THE
COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
ONE HUNDRED FIFTEENTH CONGRESS
FIRST SESSION
JULY 12, 2017

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FIRST SESSION

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C O N T E N T S

	Page
JULY 12, 2017	
OPENING STATEMENTS	
Barrasso, Hon. John, U.S. Senator from the State of Wyoming	1
Carper, Hon. Thomas R., U.S. Senator from the State of Delaware	2
WITNESSES	
Mayer, Anne, Executive Director, Riverside County Transportation Commis- sion, Riverside, California	4
Prepared statement	7
Responses to additional questions from Senator Carper	19
Aument, Jennifer, Group General Manager, Transurban North America, Tysons, Virginia	21
Prepared statement	24
Responses to additional questions from Senator Carper	39
Coes, Christopher, Vice President for Real Estate Policy and External Affairs, Smart Growth America, and Director, LOCUS: Responsible Real Estate Developers and Investors, Washington, DC	42
Prepared statement	44
Responses to additional questions from Senator Carper	50
ADDITIONAL MATERIAL	
Letter to Senators Enzi and Sanders from Senators Barrasso and Carper, March 10, 2017	71
Statement of the American Association of State Highway and Transportation Officials, July 12, 2017	80

THE USE OF TIFIA AND INNOVATIVE FINANCING IN IMPROVING INFRASTRUCTURE TO ENHANCE SAFETY, MOBILITY, AND ECONOMIC OPPORTUNITY

WEDNESDAY, JULY 12, 2017

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The Committee met, pursuant to notice, at 10:10 a.m. in room 406, Dirksen Senate Office Building, Hon. John Barrasso (Chairman of the Committee) presiding.

Present: Senators Barrasso, Carper, Boozman, Wicker, Ernst, Cardin, Whitehouse, Gillibrand, Duckworth, and Harris.

OPENING STATEMENT OF HON. JOHN BARRASSO, U.S. SENATOR FROM THE STATE OF WYOMING

Senator BARRASSO. Good morning. I call this hearing to order.

This is the sixth hearing our Committee has held this year on improving our nation's highways, bridges, and water projects. As these hearings have shown, infrastructure is critical to our nation's prosperity, and the needs and solutions for rural and urban areas are frequently different.

Solutions to address and pay for fixing our nation's crumbling roads and bridges are not one size fits all. Private financing—especially for transportation projects—tends to be much less effective in sparsely populated parts of our country. It can play an important role in and around large population centers.

Big ticket projects that cost billions of dollars—or even projects that cost hundreds of millions of dollars—are rare in rural and small States like Wyoming. Large projects are frequently critical for urban areas. Many of these projects are made possible through financing, combining Federal, State, and local assets.

Today we are here to receive testimony from experts about the range of financing options that can be used to rebuild our transportation infrastructure. Leveraging public funding to maximize private investment is a tool that the Administration strongly supports. A primary existing mechanism is the loans and loan guarantees provided by the Transportation Infrastructure Finance and Innovation Act, commonly referred to as TIFIA. TIFIA loans have been used successfully for the construction of critical transportation infrastructure.

Today we will hear about a TIFIA success story in California from Anne Mayer, the Executive Director of the Riverside County

Transportation Commission; Jennifer Aument, of Transurban, will testify about other innovative transportation funding options and ways we can improve and broaden TIFIA so more of our communities can benefit; and Mr. Christopher Coes will share Smart Growth America's ideas about how to improve the program for smaller and transit-oriented projects.

I believe that, working together in a bipartisan way, this Committee can find transportation solutions that work for both rural and urban America.

I will now turn to Ranking Member Carper for his comments.

**OPENING STATEMENT OF HON. THOMAS R. CARPER,
U.S. SENATOR FROM THE STATE OF DELAWARE**

Senator CARPER. Thank you so much, Mr. Chairman.

To our witnesses, welcome. Very nice to see you. We are glad you are here.

Mr. Chairman, I am grateful to you for calling the hearing on TIFIA. It is an important source of low cost financing, as we know, for thousands of critical projects across our country, and that includes Delaware.

I am going to take a minute to describe why it is important to us.

Senator Barrasso and I sometimes talk about the 80/20 rule, which we first learned from Mike Enzi, who once described his ability to work very well with Ted Kennedy, a very liberal Democrat, and Mike Enzi a very conservative Republican, who were the co-leads on the Health, Education, Labor, and Pensions Committee. They got a lot done.

I once asked Mike Enzi, how are you and Ted Kennedy able to get so much done, and he said, we believe in the 80/20 rule. I said, what is that? He said, the 80/20 rule, Ted and I agree on 80 percent of the stuff; we disagree on 20 percent of the stuff. So what we do is we focus on the 80 percent where we agree.

On this Committee's broad agreement with the leader, this Chairman, and before him Senator Inhofe and Barbara Boxer had broad agreement on a lot of the transportation and infrastructure items. And there is, I think, special agreement on TIFIA. One of the things we like about TIFIA I will mention in a minute is how much other money—private sector money, public money, State and local money—that we can leverage through TIFIA.

But our State has just closed its first TIFIA loan. We did it last year for a project on U.S. 301. And if you are leaving Washington, DC, you get on Route 50 heading east, trying to get to those great Delaware beaches, and pretty good Maryland beaches too. But you get on Route 50 heading east, and you get to a point you can go south and head to the beaches or head north on the 301.

U.S. 301 is a four-lane highway. It is a beautiful stretch of road, one of the loveliest stretches of road on the east coast. A four-lane road, and it goes all the way through Maryland to the Delaware line, where it becomes a two-lane road, a two-lane road, and on a busy day it gets to be a very crowded two-lane road.

But we have a project underway on U.S. 301 that will make it easier for drivers to travel through our State and get up to I-95, if they want to, or find someplace in Delaware to go to. It will also

make our community safer by taking large trucks off our smaller local streets, and our State will repay a \$211 million loan with toll revenues and other State transportation funds.

The U.S. 301 project has a total construction cost of over \$400 million. That is a lot of money for a little State. That is more than three times as much funding as Delaware receives annually, in fact, from the Federal Highway formula programs.

Without this loan, the U.S. 301 project could never have been completed. And again, it is not just for Delaware; it is actually for a lot of folks that are moving a lot of commerce that is moving through that part of our country.

The TIFIA loan helped to leverage, as I said, other bonds and State funding for the project and provided a lower interest rate and beneficial repayment terms that help the State take on such a big project.

Across the country, the story is very much the same. TIFIA is a critical component of a funding package for large projects. It helps to leverage non-Federal funding, including State, local, and private dollars.

It is important to recognize, though, TIFIA is not the solution for all types of projects. There are certain types of projects that have not received loans through TIFIA. TIFIA has provided loans for just 64 projects total since it was authorized in 1998. Think about that. How many years is that, 19 years? Nineteen years. Do the math. That is about four projects a year. But the vast majority of these projects have ranged in total cost from about \$200 million to \$3 billion, so there are some big ones.

The President has called on Congress to expand the TIFIA program in order to encourage more non-Federal investments, and—stop the presses—I think he is right. As we consider that call, we should acknowledge that TIFIA is a useful tool, not replacement for direct grants to States and cities.

We should also look for opportunities to make TIFIA available for a wider range of projects, and that includes smaller projects as well as multi-billion dollar investments that have the potential to transform regional economies like the project we are doing in Delaware.

The FAST Act expanded eligibility for small and rural projects, and for projects to build transit oriented developments. However, to date, none of these project types have received TIFIA loans.

We look forward to working with the Chair, colleagues on the Committee, including Senator Inhofe, to expand and broaden this program, and I look forward to hearing the testimony and suggestions for doing so from our panel today.

Welcome, everybody. Bienvenido, as we say in Delaware.

Senator BARRASSO. Thank you, Senator Carper.

Before we hear from our witnesses, I would like to invite Senator Harris to introduce one of our witnesses from her home State of California.

Senator HARRIS. Thank you, Chairman Barrasso and Ranking Member Carper. I appreciate and agree wholeheartedly that there are so many issues that are presented to this Committee and to all of us as Senators, the vast majority, in fact, that are not even bi-

partisan or non-partisan, and it is critical that we approach them that way.

So thank you, Mr. Chairman. I am honored to introduce Anne Mayer from California.

It is good to see you again. I welcome you warmly to the U.S. Senate.

She is the Executive Director of the Riverside County Transportation Commission, also known as RCTC. Riverside County is the tenth most populous county in the nation and home to over 2.3 million people. It is also located approximately 60 miles east from the ports of Los Angeles and the Port of Long Beach, making it a major transportation corridor for the goods in and out of the United States.

Residents and visitors to Riverside are used to sharing their highways with a high volume of trucks, but as the population continues to grow, so does congestion. This is part of a State that suffers from poor air quality, mostly due to the number of vehicles moving through it, so that growing traffic also threatens public health.

As head of RCTC, Ms. Mayer oversees the safe and reliable mobilization of the people and all the international and domestic products that pass through the region. She has over 34 years of service as a transportation official and civil engineer. Previous to her current role, she served as the District Director of the California Department of Transportation's geographically largest district, which is District 8 in San Bernardino and Riverside Counties. And with her extensive knowledge and experience, Anne has led RCTC to look for different solutions to meet the challenging transportation demands in Riverside County.

During her tenure, she steered RCTC into successfully receiving one of the United States Department of Transportation's earliest TIFIA loans to expand State Route 91, a project that cost a total of \$1.4 billion. She has also helped expand Southern California's commuter rail line, MetroLink, to expand service from Los Angeles into Southwest Riverside County.

Riverside County is a model of how a transportation agency can leverage Federal resources and bring jobs and transportation to a community that needs both. Therefore, it is my distinct pleasure to hear from Anne about how we can efficiently and effectively accelerate the development of infrastructure improvement projects for the benefit not only of California, but the entire nation.

Thank you, Mr. Chairman.

Senator BARRASSO. Well, thank you very much.

I want to remind the witnesses that your full written testimony will be made part of the official hearing record, so please try to keep your statements to 5 minutes so that we may have time to questions. I look forward to hearing the testimony of each of you, beginning with Ms. Mayer.

STATEMENT OF ANNE MAYER, EXECUTIVE DIRECTOR, RIVERSIDE COUNTY TRANSPORTATION COMMISSION, RIVERSIDE, CALIFORNIA

Ms. MAYER. Good morning, Chairman Barrasso, Ranking Member Carper, and members of the Committee.

Senator Harris, thank you for the kind introduction.

Thank you all for the opportunity to testify about our experience with TIFIA and recommendations for the future of the program.

I would like to start by thanking this Committee for your work on the FAST Act. The FAST Act made TIFIA a more user friendly and effective program for regional transportation agencies like ours.

TIFIA is an important program that provides a flexible and low cost source of financing that allows State and regional governments to put less money into debt repayments and more money into projects.

Let me take a minute to describe how TIFIA has helped our county. As was mentioned, Riverside County is both geographically and economically diverse, spanning over 7,000 square miles, with both urban and rural areas. We have the population of New Mexico in the area the size of New Jersey.

Riverside County is what we call a self-help county. Our voters have approved sales tax measures for transportation on two occasions. The combination of local and Federal dollars can lead to transformative projects that change thousands of lives for the better.

The \$1.4 billion 91 corridor improvement project has been RCTC's largest undertaking to date, with the TIFIA program providing a loan of \$421 million. The TIFIA loan was absolutely essential to the financing of the project. Without it, we would have faced costly delays or increased costs from issuing municipal debt. The project opened to traffic in March 2017, and I am very pleased to report that the results have been overwhelmingly positive.

Now we are seeking to do even more with the TIFIA program. We are currently in the process of applying for another TIFIA loan of \$152 million for the Interstate 15 Express Lanes project. This \$471 million project will add two tolled express lanes in northwest Riverside County.

We have learned many lessons from our extensive work with the TIFIA program. With the leadership of this Committee, Congress has made the TIFIA program more stable by creating a predictable application and approval process.

In the years between financing the 91 and the I-15 projects, there has been a decreased appetite for financial risk out of the TIFIA office. We welcome rigorous Federal review to ensure the integrity of the TIFIA program, but would ask that the review not be overly onerous or costly for project sponsors.

Because of uncertainty created with the change in Administrations, we were concerned about delays in approving the I-15 project. We had to pencil out what would happen if we had to abandon the TIFIA program. We estimated that financing the I-15 project without TIFIA, and using more traditional bonds, would cost RCTC an additional \$25 million. Thankfully, the Council on Credit was able to convene last month and approve our TIFIA loan, which now awaits Secretary Chao's decision.

I commend every employee who works on this program for the integrity with which they administer it. We have had challenges, but we have addressed them head on and together as a team.

Given our experiences with the TIFIA program, I would like to highlight a few of our recommendations.

Maintain mode neutrality; continue the rolling application process; maintain a high bar for financial feasibility for TIFIA projects, but not so high that project sponsors cannot afford the time or the cost to apply; continue the Build America Bureau and Federal Highway Administration efforts to address permitting issues with other regulatory agencies; and encourage the integration of TIFIA requirements into other approval processes.

In conclusion, TIFIA must continue as an essential financing source for revenue backed transportation projects, and must remain insulated from politics and stay focused on objective measures such as credit worthiness and deliverability of projects.

As Congress and the Administration look to pursue an infrastructure initiative and prepare for the reauthorization of the FAST Act in 2020, please look to RCTC as a resource. We stand ready to assist you in your efforts.

Thank you again for allowing me to testify today, and I look forward to answering your questions.

[The prepared statement of Ms. Mayer follows:]



Anne Mayer, P.E.
Executive Director
Riverside County Transportation Commission

As the Executive Director of the Riverside County Transportation Commission (RCTC), Anne Mayer leads a staff of 50 with an annual budget of \$782 million. RCTC is the regional transportation agency for Riverside County, the nation's tenth most populous county with a geography roughly the size of New Jersey. Under Anne's leadership, RCTC has delivered on promises made to the voters of Riverside County's Measure A half-cent sales tax measure and ensured that transportation projects and programs support quality of life and the economy in Riverside County. Anne spearheaded the initiation of inland Southern California's first innovative finance and innovative project delivery efforts, which are coming to fruition on State Route 91 and Interstate 15. She has also led the successful delivery of the first FTA Small Starts project in the region: The Perris Valley Line Metrolink Extension, a historic expansion of commuter rail service in Southern California.

Anne is past chairwoman and current board member of the Self-Help Counties Coalition, and Mobility 21, Southern California's public-private transportation advocacy coalition. She is the recipient of the WTS-Inland Empire Chapter's Woman of the Year award and the Athena of Riverside women's leadership award, in addition to numerous other recognitions.

Prior to joining RCTC in 2005, Anne was the Caltrans District 8 Director where she supervised the operations, maintenance, and engineering of the largest territory of any Caltrans district in California. Anne is a graduate of Michigan State University and is a Registered Civil Engineer with over 34 years of service in the transportation profession.



Testimony of Anne Mayer
Executive Director
Riverside County Transportation Commission

Before the U.S. Senate Environment and Public Works Committee

**The Use of TIFIA and Innovative Financing in Improving Infrastructure
to Enhance Safety, Mobility and Economic Opportunity**

July 12, 2017

Chairman Barrasso, Ranking Member Carper, and Members of the Committee. My name is Anne Mayer and I am the Executive Director of the Riverside County Transportation Commission (RCTC). I appreciate the opportunity to testify before you today about the Transportation Infrastructure Finance and Innovation Act (TIFIA) program, our experience with the program, and our recommendations for the future of the program. As a strong supporter of the TIFIA program, I welcome the opportunity to tell you about a smart federal investment and the value of a partnership between the United States Department of Transportation (US DOT) and local agencies that are faced with the daily responsibility of building and maintaining transportation infrastructure.

On behalf of the Riverside County Transportation Commission, I would like to start by thanking this Committee and Congress for your work on the FAST Act. The passage of the FAST Act in 2015 was critical to our area in California and the nation as a whole. Your continued leadership on transportation issues is very much appreciated by me, the members of my agency, and the residents of California. The FAST Act built on important policy reforms in MAP-21 that made TIFIA a more user-friendly program so that self-help regional agencies, such as RCTC, can better leverage our local taxes and tolls to build more infrastructure that improves the nation's critical infrastructure and our communities.

TIFIA provides a flexible and low-cost source of financing that allows state and regional governments to put less money into debt repayments and more money into pavement, tracks, and capital improvements that benefit society. The federal government's ability to provide affordable financing tools that are not otherwise available on the private market is a savings for taxpayers as well as an accelerator of job-creating transformative infrastructure improvements. The alternatives are higher-priced financing tools that squeeze limited budgets or pay-as-you-go funding that defers improvements for years or decades. There are many governments around the country, such as RCTC, that have their own revenue streams that can use this program, which is why the expansion of TIFIA in MAP-21 and the FAST Act was so critical to meet the demand to upgrade our nation's infrastructure.

Yet, while TIFIA is an essential tool to have in the federal infrastructure toolbox, it is only one tool that benefits a narrow category of projects and should not be seen as a panacea to the nation's infrastructure deficit. As my testimony will detail, TIFIA has been the cornerstone of the two flagship express lane (toll) projects at RCTC over the last decade, however a vast majority of the projects in my agency's 30-year local sales tax measure cannot use TIFIA or public-private partnerships (P3) and must have adequate sources of traditional grant funding from our state and federal governments. Congress must continue its strong support of TIFIA and encourage innovative financing while simultaneously increasing its grant funding commitments, just as many states throughout the nation, including California, have done in recent years.

Riverside County and the Riverside County Transportation Commission

Let me start by telling you about Riverside County. Riverside County is both geographically and economically diverse - spanning over 7,000 square miles with both urban and rural areas. We have the population of New Mexico in an area the size of New Jersey.

To the west and south are Orange, Los Angeles, and San Diego counties while to the north and east are San Bernardino and Imperial counties and the state of Arizona. A wide array of industries and employers thrive in Riverside County, including but not limited to: public and private higher education

institutions, leading technology firms, medical and healthcare facilities, vineyards and wineries, farming, music festivals, state and national parks and monuments, tourism, and goods movement.

Located adjacent to Los Angeles County, which has two of the largest port complexes in the world, Riverside County is home to some of the largest warehousing and distribution centers in the country. Transportation in Riverside County is severely impacted by goods being distributed all over the United States. Primary rail and highway freight corridors, including Interstates 10 and 15 and Burlington Northern Santa Fe (BNSF) and Union Pacific (UP) rail lines, bisect the county. These corridors facilitate the distribution of economically vital goods, but not without leaving a large air quality and congestion impact on Riverside County.

In 1976, California Governor Edmund G. Brown created RCTC as a county transportation commission and regional planning agency with the intent to enhance public transit, prioritize highway and transit projects, improve air quality, and other related goals. Today, RCTC plans and implements transportation and transit improvements, assists local governments with funding for local streets and roads, facilitates goods movement, provides commuters with congestion relief on local highways, operates tolled express lanes, and ensures everyone has access to transportation.

The agency is governed by a board with elected representatives from all 28 cities in Riverside County, the five County Supervisors, and one Governor's appointee. Riverside County is currently the 10th most populous county in the country with over 2.1 million residents.

Riverside County is what we call a "self-help" county. While we are very supportive of the federal transportation program and the funding we receive from it, we know that we have to do more to meet the transportation needs of our residents.

In 1988, as the population of Riverside County was increasing, the agency proposed a half-cent sales tax measure to Riverside County voters. This sales tax measure, known as Measure A, required a two-thirds approval of the voters, of which 78.9 percent voted yes. The original Measure A was a 20-year plan that promised to deliver critically important mobility improvements throughout Riverside County.

I am proud to say that RCTC delivered on those promises to the voters and because of our commitment to fulfilling our promises, the voters in the county have approved an extension of Measure A for another 30 years with a new expiration date of 2039.

RCTC's role has become increasingly challenging as Riverside County's population continues to boom. Our continued population increases have created long commutes for Riverside County residents and has placed an unprecedented demand on the transportation network. An abundance of affordable housing and a lack of well-paying jobs creates a transportation conundrum many of the neighboring counties in southern California do not experience. Residents are drawn to more affordable and newer housing in Riverside County, which has a price differential that is approximately 51 percent lower than in neighboring Orange County. This results in commutes that often begin before 5 o'clock in the morning. A similar phenomenon occurs in the southwestern region of Riverside County relative to commutes into San Diego. The residents of one of our cities, Lake Elsinore, are occasionally cited by some surveys as having the longest average commute (by time spent driving) in the nation.

What's more, the California Department of Transportation (Caltrans) published an economic forecast in 2015 that estimates Riverside County's population will approach 3.5 million in 2040. These projections

force us at RCTC to constantly plan for the future and to be creative in doing so – which is why we need an equally creative federal partner.

Shortly after the adoption of our voter-approved sales tax program, RCTC developed a plan to deliver transformative projects in Riverside County. We were already on the leading edge of integrated planning with our Riverside County Integrated Project (RCIP). This integrated plan focused on the balance between quality of life; community identity, form, and focus; choice; refining and redefining the development process; incentives; stakeholders as part of the team; and collaboration. Our commitment to these critical components set the stage for innovation. In 2004, local governments in Riverside County established the Western Riverside County Regional Conservation Authority and developed the largest, most comprehensive multiple species habitat conservation plan (MSHCP) in the United States. Since its creation, more than 403,000 acres of habitat have been preserved and numerous transportation projects have benefited from streamlined environmental approvals using Riverside County's advance mitigation plan. As a result of this plan, we are achieving key quality of life goals: protecting our environment and delivering needed transportation projects. The plan has proven that growth and conservation can co-exist.

Two recently completed projects are the Perris Valley Line (PVL) commuter rail extension and the State Route 91 Corridor Improvement Project (91 CIP). Both projects were able to advance in part due to federal investment in transportation.

The PVL project was a 24-mile extension of commuter rail service that previously originated in Riverside and terminated in Los Angeles, but now originates further south in Riverside County in the city of Perris. This project is not only an extension of a critical rail backbone system but also allows for expanded transit services connecting residents to local and regional jobs. Completion of this project would not have been possible without an investment from a US DOT Federal Transit Administration (FTA) Small Starts grant.

The 91 CIP was an extension of the first tolled express lanes in the United States – the very successful SR-91 Express Lanes in Orange County, owned by the Orange County Transportation Authority (OCTA). Similar to the PVL project, the 91 CIP would not have been possible without a significant partnership with US DOT. This project was also significant in that it marked the first time RCTC pursued alternative forms of financing, including tolling, to finance a major infrastructure project. The key to making this work was being able to utilize a TIFIA loan.

Success on State Route 91

The 91 CIP has been RCTC's largest undertaking to date. With a cost of \$1.4 billion, the project was delivered using the design-build procurement and project delivery method. The TIFIA program was a critical piece of our financing puzzle and is the reason for our success, providing a loan of \$421 million, which primarily funded construction. With the exception of a \$39 million state of California contribution, this \$1.4 billion project was solely funded by RCTC; no additional federal or state grants. This project and RCTC had no other sources of funding which made the TIFIA loan absolutely essential.

The 91 CIP added approximately 10 miles of two tolled express lanes in both directions of the existing freeway, a general purpose lane in each direction, numerous interchange and bridge improvements, and

enhanced public transit options along one of the busiest commuter corridors in the nation. See Attachment 1.

The project opened to traffic on-time in March 2017 and the results have been overwhelmingly positive. The toll lanes are averaging more than 250,000 cars per week – 40 percent higher than our original projections at project opening. Revenues generated from toll users are also exceeding expectations – and are as much as 60 percent higher than we expected. Toll revenues will pay down debt as well as cover operations and maintenance of the facility. This is a true user-pay project with any excess revenues being used to provide additional transportation benefits within the corridor.

More importantly, the overall project has delivered the promised improvements. The overall level of congestion on the freeway has improved, resulting in significant quality of life benefits that will be quantified in the near future in terms of time savings, air quality, and safety improvements.

Moreover, the economic impact of the project cannot be overstated. A study conducted by Beacon Economics prior to construction projected the creation of more than 12,800 jobs and a \$3.5 billion economic and time savings benefit. Additionally, a 2.3 percent permanent increase in base taxable sales is expected as a result of the project. Given the initial success of the project, we believe we will exceed the projections.

The TIFIA program enabled a project that increased transportation capacity, created jobs and economic opportunity, and thanks to the tolling component of the project, provides a sustainable form of funding to maintain the infrastructure it created.

Interstate 15 Tolled Express Lanes Project

Given our commitment to Riverside County residents and our experience with the 91 CIP, RCTC is seeking to do even more with the TIFIA program. Even with the 91 CIP and PVL in progress, we remained focused on providing additional infrastructure improvements to our residents. We made a promise to our residents that as soon as we completed the 91 CIP we would roll right into improving the connecting Interstate 15 (I-15) corridor. In fact, we awarded a design-build construction contract for the I-15 Express Lanes Project (I-15 ELP) only three weeks after opening the 91 CIP to traffic.

We sought and have received an invitation to apply for another TIFIA loan for the \$471 million I-15 ELP – which will add two tolled express lanes to approximately 15 miles of the I-15 in northwest Riverside County. See Attachment 2. This application for a \$152 million loan, which will primarily fund construction, received support from the US DOT Council on Credit and Finance within the last three weeks and, in fact, we appear on schedule to close our financing next week on July 18. Prior to financial close, we await the final step in the TIFIA loan process: signature and approval from Transportation Secretary Elaine Chao.

For both the 91 CIP and the I-15 ELP, TIFIA is an invaluable tool. The \$573 million in federal loans translates into a total combined investment of nearly \$2 billion in critically needed infrastructure in one of the nation's fastest growing regions.

Our experiences and lessons from the TIFIA program

RCTC's experience with the TIFIA program on two major infrastructure projects within the last five years is positive and confirms that this is an important tool for regional governments to use to meet their transportation financing needs. Our experience confirms that US DOT's creation of the Build America Bureau (BAB), and the subsequent expansion of its role through the FAST Act, has created a more user-friendly experience. US DOT is fortunate to have the career professionals who work on this program and act in the interest of federal taxpayers.

While we have had a positive experience with this program, we have also learned some lessons that we hope can serve as a basis for continued improvements to the TIFIA program. The challenges and risks to the SR-91 and I-15 projects have not come from the financial, engineering, or technical realm. Instead, the majority of our challenges have come from factors in Washington beyond our control.

When we first started working on the 91 CIP, we faced uncertainty and anxiety. In 2011, when we first expressed formal interest in the TIFIA program, the TIFIA program was funded at a much lower level than it is today – which was far less than what was needed to finance the many creditworthy projects being proposed throughout the country. US DOT held annual competitions for its limited TIFIA budget, meaning that billion-dollar projects that took years, even decades, to develop were subjected to a complex process here in Washington, D.C. Even with this uncertainty, our Commission took the financial and political risk of advancing the 91 CIP, not knowing if we would ever be one of the fortunate few to receive limited TIFIA funding. Knowing we might not succeed the first time, we began to apply for TIFIA earlier than we really needed to, theorizing that applying early and often would put us in a “pipeline” and make us more familiar to the staff overseeing the TIFIA program. The pressure to compete and overcome the uncertainty created by TIFIA's limited budget and political selection process was expensive in time and money. Thankfully, after four attempts, the 91 CIP was accepted into the TIFIA program and the project was financed on-schedule.

Another crucial factor in our 91 CIP financing and project success was the very high-level federal focus placed on the project delivery process. Then Federal Highway Administration (FHWA) Administrator Victor Mendez placed the 91 CIP project in the Enhanced Environmental Review Process, which, combined with the FHWA Every Day Counts program, set a positive tone in cutting red tape and making timely decisions. Federal reviews were expedited and returned promptly. This set a positive tone of importance among other federal agencies and with Caltrans. As a result, our Environmental Document was approved in only 63 months. This was made possible thanks to the leadership and efforts of FHWA staff.

Around the same time, Congress passed MAP-21, which increased the TIFIA program budget ten-fold, allowing US DOT to accept TIFIA applications on a rolling basis rather than once every fiscal year. The change in law relieved creditworthy applicants such as RCTC from the burden of uncertainty, meaning that we could focus our resources on getting projects ready to go. With the leadership of this Committee, MAP-21 and the FAST Act made much needed improvements to the TIFIA program – providing a more stable and predictable application and approval process. Now, the focus is on the timeliness, readiness, and creditworthiness of the project.

In the years between financing SR-91 and I-15, we have noticed a decreased appetite for financial risk out of the TIFIA office. In the interest of protecting federal taxpayers, professional US DOT staff have

looked at our financial numbers with a higher degree of scrutiny and skepticism. At RCTC, we also have a very limited appetite for risk, especially when it comes to billions of local taxpayer dollars. Therefore, RCTC's financial policies and strategies are more conservative than might be necessary. Layering our conservative financial approach over that of the TIFIA program can create significant issues. While we welcome rigorous federal review to ensure the sustainability and integrity of the TIFIA program, we encourage US DOT to monitor its lending requirements to ensure they proportionally balance risk among local and federal taxpayers and fulfill the objective of the program to provide a flexible, subordinate financing source.

At only one point during the 91 CIP or I-15 ELP TIFIA applications did RCTC ever consider abandoning the program in favor of more expensive traditional financing. This occurred a few months ago near the end of several months of successful negotiations of the I-15 ELP TIFIA loan agreement. RCTC became concerned when considerable uncertainty emerged about the ability of US DOT to move our application to the US DOT Council on Credit and Finance. The Council on Credit and Finance is comprised of political appointees, many of whom at this time are either not yet nominated or confirmed. The prospect of not having the approval body installed to move our TIFIA loan forward in order to keep our project on schedule presented the most significant risk in the entire process. Delaying our approval by the Council on Credit and Finance and Secretary of Transportation, even by one month, means halting an active construction contract worth hundreds of millions of dollars and incurring significant penalties our local taxpayers would owe to that contractor as a result. Further, delaying approval would mean missing a construction season and potentially delaying completion of the project by up to one year.

Deeming this delay risk to be unacceptable, RCTC aggressively began to develop a Plan B that did not include TIFIA late in the game. We estimated that financing the I-15 ELP without TIFIA and using more traditional bonds would cost RCTC an additional \$25 million in premiums. That is \$25 million that would not be available to build other needed infrastructure in Riverside County. However, if it meant keeping the I-15 ELP on-schedule and avoiding the costs of delay, it was a cost we would have to accept. Thankfully, the Council on Credit and Finance was able to convene two weeks ago and approve our TIFIA loan, which now awaits Secretary Chao's decision.

Despite the difficulty of getting into the TIFIA program the first time and some late-breaking unexpected uncertainty on our second loan, I am pleased to say that from day one, every member of the TIFIA and Build America Bureau staff has demonstrated the highest degree of professionalism and commitment to their jobs. I commend every employee who works on this program for the integrity with which they carry out their responsibility to protect federal taxpayers and invest in infrastructure that improves communities throughout the United States. They have negotiated with RCTC in good faith and with transparency. When we have had challenges, we have addressed them head-on together as a team.

By accessing the TIFIA program, we have learned many lessons. The 91 CIP, a user-funded project utilizing a TIFIA loan, was a new experience for the professionals at Caltrans and Federal Highway Administration's California Division. RCTC, Caltrans, and FHWA worked collaboratively to integrate the TIFIA program's unique structure with traditional approval processes for large projects as best we could. Many of these conversations between agencies were difficult and required all of our organizations to change the way we thought about doing business. Despite the discomfort brought by change, we all agreed that the 91 CIP was too important to California and the federal-aid highway system to allow bureaucracy and traditional process to stand in the way. Communication between state, federal, and local agencies was frequent at all levels, including my regular communication with the Director of

Caltrans and the FHWA Administrator. All of us were “all in.” I am confident that without this level of collaboration, the 91 CIP would not have been completed on-schedule or on-budget. It is this continued level of collaboration that we look forward to with the I-15 ELP as well.

Recommendations for Congress

Given our experiences with the TIFIA program, I would like to highlight several recommendations for your consideration.

1. *Continue to provide funds for the TIFIA program.* Fully funding the FAST Act authorized levels for the TIFIA program will enable the program to provide the financing needed to advance qualified projects. Stable and reliable funding for the program will limit disruptions to the application process and just as important, will limit costs associated with project approval delays due to lack of sufficient program funding.
2. *Maintain mode neutrality for the TIFIA program.* Projects applying for TIFIA assistance should be judged on their financial feasibility, repayment capability and their ability to move forward once financing is approved – and not be selected based upon any arbitrary desire to advance one transportation mode or outcome over another.
3. *Continue the current rolling application process.* It is important to encourage project sponsors to apply for assistance when their project is ready – by establishing their creditworthiness and their readiness to proceed. Project sponsors should not have to rush to apply prematurely in order to get in the queue for financial assistance. It is also important that projects be scrutinized by US DOT on a continuous basis and not a limited basis. This allows proposed projects to continue to advance and avoids unnecessary and costly delays.
4. *Maintain a high bar for financial feasibility for TIFIA projects – but not so high that project sponsors cannot afford the time or cost to apply.* It is important that the federal government protects the taxpayer investments made by the TIFIA program. At the same time, is important that the steps necessary to show creditworthiness and financial feasibility not be so stringent as to discourage the use of the program.
5. *Put into practice Congress’ allowance for up to 49% of project costs to be financed by TIFIA.* Although MAP-21 and the FAST Act provide that up to 49% of project costs can be financed by TIFIA, BAB has indicated to RCTC and other applicants that they prefer to limit TIFIA to 33 percent of project costs, which was the limit under SAFETEA-LU. Congress’ intent with raising TIFIA’s share was to make projects more affordable and assist project sponsors to stretch their programs further. Putting this intent into practice will accelerate infrastructure investment in urban and rural areas.
6. *Continue the Build America Bureau and FHWA efforts to address permitting issues with other regulatory agencies.* It can be daunting and intimidating for project sponsors to navigate the maze of federal agencies and permitting requirements. While at RCTC we have substantial experience in

these areas, expanding the pool of interested TIFIA program participants will require continued assistance from USDOT to successfully apply to the program.

7. *Encourage integration of TIFIA requirements into other approval processes.* TIFIA is a unique tool that is not a part of the approval process for most projects. Therefore, many US DOT procedures do not contemplate how the TIFIA process impacts other aspects of funding or project development. This can lead to conflicting directions to applicants from different offices within US DOT. The Build America Bureau can assist with reconciling these intra-agency differences.
8. *Streamline the Letter of Interest process in order to provide greater schedule certainty for TIFIA loan applicants.* Congress established clear deadlines for project sponsors and USDOT to follow with regard to TIFIA applications. While an important part of the application process, more can be done to reduce the uncertainty that exists under the current Letter of Interest process. The Build America Bureau should help ensure that applicants do not face unnecessary delays – allowing better planning, procurement, and implementation of TIFIA projects.

Conclusion

Congress' leadership and commitment to passing the FAST Act, which provides five years of stable transportation funding, was critical to agencies like RCTC that plan multi-year, billion-dollar capital improvement projects years in advance. RCTC thanks the Senate Committee on Environment and Public Works and all members of Congress for passing the FAST Act.

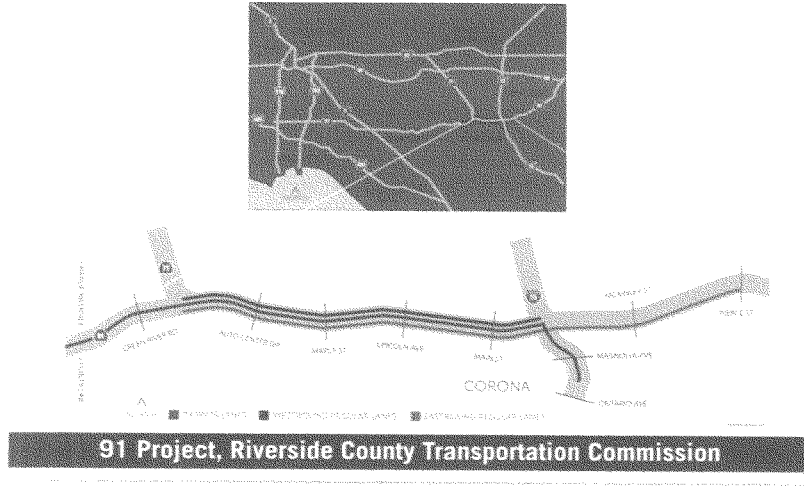
TIFIA must continue as an essential financing source for major revenue-backed transportation projects. The program must remain insulated from politics and focused on objective measures such as creditworthiness and deliverability of projects. Congress should encourage and reward self-help revenue-raising at the state and local levels while simultaneously increasing federal funding levels for infrastructure to match and supplement those self-help efforts. Local governments, whose representatives are closest to the people, and who take responsible financial and political risks to do these projects for the benefit of their communities and the nation, should be rewarded, recognized, and motivated by federal funding and policy to continue doing so. We have much work to do to bring our nation's transportation system into a condition that fulfills our economic, environmental, and quality of life potential – and we can only accomplish that in partnership with one another.

As Congress and the Trump Administration look to pursue an infrastructure initiative and prepare for the reauthorization of the FAST Act in 2020, please look to us at RCTC as a resource. RCTC stands ready to assist you in your efforts.

Thank you again for allowing me to testify today and I look forward to answering your questions.

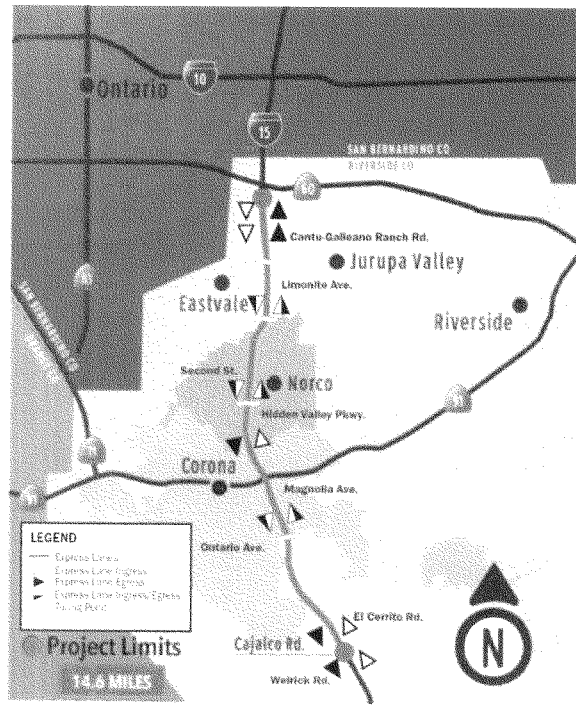
ATTACHMENT 1

SR-91 Corridor Improvement Project



ATTACHMENT 2

I-15 Express Lanes Project



Senate Committee on Environment and Public Works
Hearing entitled, "The Use of TIFIA and Innovative Financing in Improving Infrastructure to
Enhance Safety, Mobility, and Economic Opportunity"
July 12, 2017

Responses of Anne Mayer – Executive Director of the Riverside County
Transportation Commission, to questions from Senator Carper

- 1. *Financing programs such as TIFIA are important tools to meet infrastructure needs but they do not replace federal grant funding. Would you agree with that statement?***

TIFIA is an important tool, especially when there is a dedicated source of funding, such as tolls, to repay the loan. However, it is not and should not be a replacement for federal grant funding. While many local governments, such as the Riverside County Transportation Commission (RCTC) have stepped up to the plate with local revenue sources to improve local infrastructure needs, the federal government is an important partner in this process. Financing programs such as TIFIA can address a certain component of our infrastructure program but it will not replace the need for continued federal support to address funding gaps.

- 2. *For the Riverside County Transportation Commission, how much of the value from TIFIA would you ascribe to its low cost of capital, as opposed to features such as deferred repayment during project ramp-up?***

The availability of the low cost of capital for RCTC's first TIFIA loan on the State Route 91 Corridor Improvement Project resulted in a savings of approximately \$519 million. On RCTC's second TIFIA loan on the Interstate 15 Express Lanes Project, savings are estimated at \$142 million.

- 3. *The FAST Act reduced TIFIA funding by 70 percent. Has that reduction in funding affected RCTC's ability to secure TIFIA loans or attract private capital or other impacts?***

While the reduction in TIFIA funding did not impact the ability of RCTC to secure a TIFIA loan for the Interstate 15 Express Lanes Project, it is important that the program be funded at appropriate levels that provide for stability and certainty for future project sponsors.

4. *The FAST Act also lowered the TIFIA cost threshold for local projects. Would RCTC consider TIFIA a good financing option for a \$10 million loan for a local project, and if not, what changes to the program would make TIFIA more attractive for small, local projects?*

From our experience with the TIFIA program to date, the program as it exists today would not be a good financing option for a \$10 million loan for our local projects. The costs to obtain a TIFIA loan and the complex process to attain such a loan would outweigh the possible value for the borrower. The costs that would make such a loan prohibitive for smaller projects include: professional services such as attorneys, financial advisors, traffic and revenue consultants, and independent engineers, as well as TIFIA's legal and financial team. In addition, the application and approval process may be too involved to move forward without significant economies of scale - which would not be available for smaller projects.

Possible changes to the TIFIA program that might attract small projects would be related to the creditworthiness requirements and the loan negotiation process. The following changes could reduce the costs and complexities of the TIFIA program:

- a. Require only one investment grade rating rather than two to execute a loan;
- b. Use investment grade traffic and revenue studies information, primarily sensitivity scenarios, for TIFIA creditworthiness assessments rather than requesting other scenarios; and
- c. Allow more flexibility in negotiating certain terms and conditions (T&C) in the TIFIA loan in order to minimize the administrative burden of an agency managing a small TIFIA loan.

Senator BARRASSO. Thank you, Ms. Mayer.
Ms. Aument.

**STATEMENT OF JENNIFER AUMENT, GROUP GENERAL
MANAGER, TRANSURBAN NORTH AMERICA, TYSONS, VIRGINIA**

Ms. AUMENT. Good morning. Chairman Barrasso, Ranking Member Carper, and members of the Committee, thank you for your leadership on transportation and for the opportunity to speak to you today on the benefits available through TIFIA and other efforts to leverage private sector financing and innovation to deliver transportation improvements.

My name is Jennifer Aument, and I am the Group General Manager-North America for Transurban.

Transurban is the largest infrastructure company in Australia and among the largest toll road builders and operators in the world. We manage and develop urban toll road networks by partnering with governments to deliver innovative transportation solutions. Transurban has delivered \$25 billion to upgrade capacity, ease road congestion, and provide travel time savings in the cities in which we operate.

There is much discussion in Washington right now and among members of this Committee about the potential to leverage private capital to help available funds go further. I am pleased to be here today to provide concrete examples of how this model is working to deliver transformational transportation projects that unlock congested cities, provide travelers with more options, create thousands of jobs, and inject billions into the economy.

Here in the United States, like California, Virginia has established itself as a key leader in embracing innovative transportation solutions. We are fortunate to have had the opportunity to work with the Commonwealth to deliver a \$3 billion Express Lanes network on the Capital Beltway and I-95 just across the river in Virginia. It is among the best examples in the country of how States can successfully leverage private capital and partnership to meet critical transportation needs.

The 495 and 95 Express Lanes projects are 45 miles of dynamically priced high occupancy toll lanes. The Express Lanes, which run parallel to the existing regular lanes, provide options for travelers to pay a toll to avoid the infamous congestion of the region. Carpools and transit vehicles may access the lanes at no charge.

Both projects utilize the TIFIA program, as well as Private Activity Bonds. The innovative financing approach enabled the Commonwealth of Virginia to leverage private capital to translate \$492 million in public investment into \$3 billion worth of transportation improvements. When factoring in construction costs as well as operations and maintenance, which Transurban is responsible for, the Commonwealth's direct return on its investment is 29 times for the 495 Express Lanes and 110 times for the 95 Express Lanes project.

The projects, which were both delivered on time, on budget, and with industry leading safety records, also created more than 28,000 jobs during construction and generated \$6.3 billion in economic activity.

Now in operation, the Express Lanes serve nearly 100,000 carpoolers and 940 bus trips every day. We save commuters

225,000 hours of delay a month, which is why it is no surprise that recent surveys show that more than 90 percent of frequent toll paying customers give the lanes rave reviews.

The success of Virginia's Express Lanes network would not have been possible without the TIFIA program. Thanks to the program's flexible terms and attractive interest rates, TIFIA enables major projects to be delivered that might not otherwise be possible.

As both a long time TIFIA advocate and borrower, Transurban believes that administrative and policy changes are necessary to ensure the program can continue to deliver on its policy mission and realize its full potential in helping to meet our nation's transportation needs.

TIFIA can build on the success that it has had under the leadership of this Committee and produce even greater transportation outcomes by promoting consistency in its loan terms and conditions; strategically managing risks across its portfolio to enable it to support more projects, while also protecting taxpayers; and providing greater certainty and speed in the evaluation and approval process.

Projects benefit when borrowers can depend on consistency in major terms over time, and can have confidence in an underlying risk framework within which terms are defined and loan decisions made. This consistency is critical to the project planning project and the sponsors' ability to work with our government partners to develop transportation projects that meet policy needs and can ultimately be financed and delivered.

When developing major projects, certainty and process in timing is also critical, particularly when private investors are involved. Transurban recently made the difficult decision not to pursue TIFIA to support the 395 Express Lanes project. Looking at all aspects of the project, we decided that the potential costs associated with the uncertainty around the terms TIFIA would require for the 395 loan, as well as the timing and process for approval, outweighed the benefits that a TIFIA loan could provide.

Fortunately, we worked with Virginia to find another solution that enabled us to move forward with the project, which breaks ground in a couple of weeks. But that solution may not—in fact, will not be available for other projects. Policies that drive transparency and certainty in process and terms will ensure that TIFIA can continue to support transformational projects like the Express Lanes.

Beyond TIFIA reform, the Federal Government can take additional steps to help increase the pipeline of transportation projects and attract more private investment. Private Activity Bonds have been a cornerstone of the P3 industry in the U.S., supporting 16 of the 20 privately financed major projects that have closed over the last decade.

It is critical that Congress increase PABs authorization to support growing demand for the program and expand the program to accommodate new, more innovative and diverse projects, including brownfield projects.

The U.S. could also benefit from replicating certain programs from around the world that have proven to attract private investment and help States increase the total funding available for infra-

structure, including Australia's Asset Recycling Model. If merited in the U.S., this kind of Federal incentive program could unlock billions in proceeds to support new projects. In fact, Transurban estimates the top 10 existing U.S. public toll roads alone have the potential to unlock as much as \$150 billion for new transportation projects.

These kinds of programs, combined with a long-term sustainable public transportation funding, will enable the U.S. to put the best of government and the private sector to work to help rebuild our infrastructure, create jobs, and get the economy moving.

Mr. Chairman, Ranking Member Carper, and Committee members, thank you again for inviting me to be part of this dialogue today.

[The prepared statement of Ms. Aument follows:]



Jennifer Aument
Group General Manager, North America
Transurban

Jennifer Aument oversees Transurban's business in North America, where she is responsible for the development, financing, construction and operations of major toll road infrastructure. She also serves on the global leadership team for the \$20 billion international toll road owner and operator.

Jennifer and her team at Transurban were among those who pioneered the use of public-private partnerships for major transportation infrastructure in the United States and were the first to use a number of innovative financing and technology strategies in the development of major toll road projects, including the 495, 95 and 395 Express Lanes in Northern Virginia. Under Jennifer's tenure, these projects have won multiple industry awards for financing, innovation, safety and technology from groups such as the American Road & Transportation Builders Association, Engineering News-Record, Intelligent Transportation Society of America and the International Bridge, Tunnel and Turnpike Association.

As a leader in the transportation industry, Jennifer has advised state governments across the country on issues related to transport policy, innovative finance and public-private partnerships, and currently serves on advisory boards for the Eno Center for Transportation, the American Road & Transportation Builders Association and George Mason University. She was recently named among the "Outstanding Women in the Building Industry" and Commercial Real Estate Women's "Woman of Impact."

Jennifer has been appointed to key positions by both Republican and Democratic governors, including commissioner and executive committee member for the Virginia Port Authority – one of the largest shipping enterprises in the United States. Jennifer also serves in number of community leadership roles, including as chairman of the Northern Virginia Chamber of Commerce and a member of the board of directors for one of the region's largest non-profit organizations, Northern Virginia Family Services.

Prior to joining Transurban in 2006, Jennifer worked for Bechtel Infrastructure to develop the Washington Metrorail Silver Line. She began her career working in the West Virginia state legislature and went on to work as a public affairs and policy advisor to energy, infrastructure and financial services companies, including major multinational corporations such as HSBC, Suez Energy and General Motors.

She holds a Masters of Business Administration from The George Washington University and a bachelor's degree in journalism and political science from West Virginia University.



Testimony of Jennifer Aument
Group General Manager, North America
Transurban

Before the Senate Committee on Environment and Public Works

Hearing on "The Use of TIFIA and Innovative Financing in Improving
Infrastructure to Enhance Safety, Mobility, and Economic Opportunity"

July 12, 2017

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Introduction

Chairman Barrasso, Ranking Member Carper and members of the Senate Environment and Public Works Committee, thank you for the opportunity to speak to you today on the benefits available through the Transportation Infrastructure Finance and Innovation Act (TIFIA) and other efforts to leverage private sector financing and innovation to deliver transportation improvements. My name is Jennifer Aument, and I am the Group General Manager of North America for Transurban.

Transurban is the largest infrastructure company in Australia and among the largest toll road builders and operators in the world. We manage and develop urban toll road networks by partnering with governments to deliver innovative transportation solutions. Transurban has delivered \$25 billion to upgrade capacity, ease road congestion and provide travel time savings in the cities in which we operate. We are currently working to deliver nearly \$7 billion in additional improvements – construction of which is expected to put nearly 20,000 people to work.

Our partnerships with governments on both sides of the world have helped them deliver greater transportation and economic outcomes with their tax dollars. To be clear – our role is to enhance public transportation revenue – not replace it. Long-term, sustainable public funding remains the critical foundation for the nation's transportation program.

There is much discussion in Washington, D.C. right now about the potential to leverage private capital to help available public funds go farther. It is often discussed in the abstract – translating one dollar into ten, or 200 million dollars into a trillion. I am pleased to be here today to provide concrete examples of how this model is working both here in the United States and around the world to deliver transformational transportation projects that unlock congested cities, provide travelers with more options, create thousands of jobs and inject billions into the economy.

The Australian experience: leveraging private capital and innovation

Australia has long embraced opportunities to leverage private capital. Currently Transurban is working with our government partners in Australia to overhaul some of the country's most critical transportation corridors.

NorthConnex is an \$AUD3 billion, five-and-half mile tunnel project in Sydney, Australia. Currently under construction, this public-private partnership between New South Wales and Transurban will unlock the city's most congested corridor – pulling as many as 5,000 heavy commercial vehicles per day off local streets and helping commuters bypass the grueling, daily stop-and-go of twenty-one traffic lights. By leveraging its partnership with Transurban, the government is delivering greater improvements than originally planned, a decade faster, and for a billion dollars less than initial estimates.

Similarly, transformational improvements are underway in the city of Melbourne, where Transurban is working with the state of Victoria on finalizing the more than \$AUD5.5 billion West Gate Tunnel project, which will be delivered and largely funded by the private sector. This new tunnel will use the latest technologies to relieve congestion on the city's major port access route, improve driver safety, create a new direct freight link to the Port of Melbourne and remove significant volumes of trucks from local neighborhoods.

Innovation at home: the Virginia Express Lanes

Here in the United States, Virginia has established itself as a key leader in embracing innovative transportation solutions. Our partnership with the Commonwealth for the \$3 billion Express Lanes network on the Capital Beltway and Interstate 95 just across the river in Virginia is among the best examples in the country of how states can effectively engage in public-private partnerships.

The 495 and 95 Express Lanes projects are 43 miles of dynamically priced high occupancy toll (HOT) lanes. The Express Lanes, which run parallel to the existing regular

lanes, provide an option for travellers to pay a toll to avoid the region's infamous congestion. Carpools and transit vehicles may access the lanes at no charge.

Both projects utilize the TIFIA program and Private Activity Bonds (PABs). The innovative financing approach enabled the Commonwealth of Virginia to leverage private capital to translate a \$492 million public investment into \$3 billion worth of transportation improvements. When factoring in construction costs as well as operations and maintenance, which Transurban is responsible for, the Commonwealth's direct return on its investment is twenty-nine times for the 495 Express Lanes and 110 times for the 95 Express Lanes.

The projects, which were both delivered on time, under budget and with industry leading safety records, have also provided substantial economic impacts for Virginia – creating more than 28,000 jobs during construction and generating \$6.3 billion in economic activity.

Now in the operations phase, the projects have also delivered on the promise of relieving congestion, providing faster and more reliable trips, and enabling new express bus routes and other transit improvements.

In the last quarter, our Express Lanes customers experienced average time savings during rush hour of twenty-four minutes on the 495 Express Lanes and forty-nine minutes on the 95 Express Lanes. On busy summer vacation travel days, 95 Express Lanes customers can save as much as three and a half hours across a single, 30-mile trip. The network delivered to our customers a cumulative savings of more than 225,000 hours in January alone – saving local travelers more than \$5.5 million in delay costs.

The Express Lanes have also strengthened HOV and transit in the corridor by providing a faster, toll-free travel option to carpoolers and buses during all times of the day. We serve more than 100,000 carpoolers and approximately 940 bus trips every week day across the network.

According to research from this past May, the traveling public sees value in the Express Lanes. A majority of local residents say the lanes benefit the region. More than 80 percent of toll-paying customers describe them as a good option. Support is particularly high among frequent users, of which 90 percent say they derive personal benefit from the toll roads.

Virginia is building on the success of this network. Later this month, the Virginia Department of Transportation and Transurban will break ground on the 395 Express Lanes, and we are also working on plans to extend the lanes south along I-95 to Fredericksburg. Through a \$165 million FASTLANE grant, Virginia is able to leverage \$565 million in private capital to advance a number of multi-modal improvements across these corridors, which serve a number of important Department of Defense assets, including the Pentagon and Washington Headquarter Services. Virginia is also leveraging substantial private capital to overhaul the congested Interstate 66 corridor.

Opportunities to leverage more private capital to meet transportation needs

Congress has the opportunity to adopt policies that will provide more United States communities with the resources, tools and incentives they need to advance the kinds of projects that are transforming regions like Sydney, Melbourne and Northern Virginia.

Over the last decade, significant progress has been made nationally in developing policy frameworks and educating states and local governments on the benefits of the public-private partnership model. While technical assistance is valuable, there is an even more impactful role the federal government could play, including:

- Funding and strengthening the existing TIFIA program;
- Expanding the use of Private Activity Bonds; and
- Providing meaningful financial incentives to encourage states to maximize public funding and assets, such as asset recycling.

These innovative financing programs are important elements of what must be a comprehensive program which also includes the adoption of new, sustainable funding sources; expansion of user pay and tolling options; the streamlining of environmental and regulatory reviews; and policies that promote the full utilization of advanced technologies to expand mobility and improve safety.

With that in mind, I would like to offer comments and recommendations in three specific areas: TIFIA, PABs and asset recycling.

Enhancing the Transportation Infrastructure Finance and Innovation Act

The success of Virginia's Express Lanes network would not have been possible without the TIFIA program.

Transurban is pleased to have been among the first to use TIFIA, and we understand well the positive impact the program has had. Thanks to the program's flexible terms and attractive interest rates, TIFIA enables major projects to be delivered that might not otherwise be possible.

Every year we are proud to host policy makers from around the world who visit our projects to learn about TIFIA and seek to mirror the program's success in their countries. We also have great respect for the dedicated and professional TIFIA team, who manage the program on a very modest administrative budget, and we place tremendous value on the partnership we have had with them for more than a decade.

As both a long-time TIFIA advocate and borrower, Transurban believes that administrative and policy changes are necessary to ensure the program can continue to deliver on its policy mission and realize its full potential in helping to meet our nation's transportation needs. TIFIA can deliver greater transportation outcomes by:

- 1) Promoting consistency in its loan terms and conditions;

- 2) Strategically managing risks across its portfolio to enable it to support more projects, while also protecting taxpayers; and
- 3) Providing greater certainty and speed in its evaluation and approval processes.

Promoting consistency in its loan terms and conditions.

There is a continuum of credit standards upon which any lender makes decisions, and lenders must assess and refine those standards to reflect changing market dynamics. No borrower would expect otherwise.

But projects benefit when borrowers can depend on consistency in major terms over time, and can have confidence in an underlying risk framework within which terms are defined and loan decisions made. This consistency is critical to the project planning process and to sponsors' ability to work with their government partners to develop transportation projects that meet policy needs and can ultimately be financed and delivered.

Our experience is that TIFIA's terms and risk profile shift from one project to the next, and even within the negotiation of a single transaction. These changes are well intentioned – often designed to address a risk identified in the last project or to anticipate new issues. However, sizeable shifts in terms over time can have the unintended consequence of creating greater uncertainty and risk, which drives up project costs, delays project implementation, and reduces the benefits that can be delivered.

For example, one of the key benefits of TIFIA is its subordinate position in the capital structure, which reduces the risk for senior lenders – maximizing the availability of capital and reducing the overall cost of capital. This feature has been instrumental in promoting TIFIA's policy directive to provide "facilitative" financing that brings other lenders and investors to the table. Over time, TIFIA has required terms that increasingly reflect senior debt status – progressively chipping away at a key benefit and policy objective of the program.

Policy and administrative recommendations to address this trend could include:

- Publishing an underlying risk framework and underwriting standards within which loans can be negotiated – providing a clear and more consistent road map for both the TIFIA team and its applicants.
- Creating a federal advisory committee to evaluate industry trends and periodically assess the effectiveness of TIFIA's risk framework in meeting its policy objectives.
- Providing some level of "grandfathering" for key terms that have already been negotiated for projects in development should TIFIA's underlying risk framework be subsequently changed.

Strategically managing risks across its portfolio to enable it to support more projects, while also protecting taxpayers.

The 495 Express Lanes project could not have been financed without TIFIA. High occupancy toll lanes were an untested concept at the time. Virginia and Transurban were seeking to finance and deliver the project amidst the global financial crisis. And we knew that the traveling public would take some time to adjust to new travel options, so the project would require a long ramp-up period before it could fully support its debt obligations.

TIFIA shared these risks on the 495 Express Lanes, and it has paid off for taxpayers and area commuters.

TIFIA was designed to take these kinds of risks. The program supports a portfolio that enables TIFIA to balance risks across projects of varying characteristics and complexities. It also requires a capital charge to offset the impact of some inevitable defaults. And it is resourced with practitioners who have industry experience in managing portfolios.

By managing risks across its portfolio, TIFIA can support the kinds of projects – like the 495 Express Lanes – that wouldn't otherwise be possible, and without putting taxpayers at undue risk.

In recent years, however, the TIFIA program has become increasingly risk averse. While some of these changes have been appropriate to address changing market dynamics, the program may ultimately shift too far away from projects like the 495 Express Lanes towards low-risk projects that could more easily secure financing from more conventional alternatives.

For example, while TIFIA applies a capital charge based on a project's risk profile to offset the impacts of potential default, it is increasingly seeking to further de-risk projects by requiring less flexible terms and standards in loan and inter-creditor agreements. The program must balance these extra protections with the additional costs and delays they may require.

Policy and administrative recommendations to ensure TIFIA can continue to take a portfolio approach may include the following:

- Congressional reporting that is focused not just on individual project performance, but the risk profile of the overall TIFIA portfolio, effectiveness of the credit review process and alignment with policy objectives.
- Primary dependence on the capital charge as the appropriate means to address project risk, instead of unnecessarily layering capital charges with risk-averse terms in loan and inter-creditor agreements.
- Reinforcement of TIFIA's role in supporting higher risk projects as part of its mission.

Providing greater certainty and speed in its evaluation and approval processes.

Transurban recently made the difficult decision not to pursue TIFIA to support the 395 Express Lanes project.

Looking at all aspects of the project, Transurban decided that the potential costs associated with the uncertainty of the TIFIA process outweighed the benefits that a TIFIA loan could provide.

Because of the trends described earlier, the project team faced uncertainty around the terms TIFIA would require for the 395 loan, as well as the timing and process for approval. In isolation, these challenges would have been manageable. But context is critical on major projects. Our design-builder could only hold the committed construction price for a few months, after which there could be increases in fuel, labor or other costs. The project also faced the risk of rising interest rates. To provide certainty for Virginia, Transurban had committed a \$10 million bond that would be payable if we could not finance the project on schedule.

We were confident that the TIFIA team would do everything they could do to advance the process, but the risk was too high. A review of recent transactions found that financing timelines ranged from five to 15 months. Early indications were that some key terms could be inconsistent with previous TIFIA loans.

Fortunately, Virginia provided a loan from the Virginia Transportation Infrastructure Bank – a smaller, state-based program similar to TIFIA – to enhance the viability of the project and enable the team to deliver the full scope of planned transit and highway improvements.

The decision to proceed without TIFIA was in no way a reflection on the TIFIA team, but on the realities project sponsors face when advancing major transportation projects.

In the case of the 395 Express Lanes, Virginia was able to provide a solution to make the project work, and we look forward to breaking ground on improvements later this month. For some major projects across the country, there may not be viable alternatives to TIFIA financing.

That is why it is critical that Congress and TIFIA continue to find ways to accelerate and provide more certainty in the approval process.

Potential administrative and policy solutions include the following:

- Provide greater transparency for borrower on the loan review and approval process.
- Schedule regular and frequent TIFIA credit council meetings to facilitate timely and consistent decision-making.
- Prioritize high-impact projects that address critical transportation or safety needs, generate substantial economic impacts, and transfer material risk away from taxpayers.
- Prioritize projects that leverage private capital, whose investors often require greater certainty in process.
- Expedite reviews for projects with strong credit worthiness and experienced sponsors.
- Provide sufficient administrative funding to support program growth and accelerated timelines.
- Require regular reporting on time required to advance a project from bid selection to financial close, to more effectively track timelines prescribed in MAP-21.

Expanding Private Activity Bonds

Over the last decade, PABs have been a cornerstone of the transportation P3 industry, supporting sixteen of the twenty privately financed, major projects that closed over this time.

As governments look to increase the volume and breadth of projects delivered as P3s it must be anticipated that growing demand for PABs will require a significant increase in PABs authorization. Further, eligibility refinements will be needed to support new, diverse and innovative applications for PABs.

The need to remove the \$15 billion cap on PABs has long been a topic of discussion, but the need goes further. When PABs eligibility was expanded under SAFETEA-LU to become available for surface transportation projects, the P3 market was opened up for investment. However, PABs are still eligible only for greenfield, not brownfield, projects.

Opening up the eligibility requirements for PABs issuances to include both greenfield and brownfield projects would incentivize more private investment in existing assets (including asset recycling) by reducing the cost of capital differential for private investors, enhance existing P3 projects by providing private sponsors with more cost-effective financing tools and reduce the amount of the public contribution toward P3 projects.

Providing incentives through asset recycling

In addition to improving existing programs, the United States could benefit from replicating certain programs from around the world that have proven to successfully attract private investment and help states increase the total funding available for infrastructure investment.

In 2014, Australia established the Asset Recycling Initiative (ARI), which incentivized state and local governments to sell or lease public assets to the private sector to raise funds for infrastructure improvements. If a state privatized an existing public (brownfield) asset such as a port, electricity transmission network or roadway, Australia's federal government paid the state government an additional fifteen percent of the negotiated lease or sale price. To receive this payment, the state had to reinvest the proceeds from the asset privatization into greenfield infrastructure projects.

In the 2016/17 year, the Australian federal government finalized agreements with four states and territories worth \$AUD3.3 billion, which will unlock \$AUD23 billion in infrastructure spending.

As an example, Sydney Metro is Australia's largest public transportation project, and when complete in 2024 it will deliver thirty-one metro stations (including underground stations) and new metro rail, connecting people across Sydney to areas of employment. While the concept had been proposed for many years, the project's second stage remained unfunded until 2014 when the New South Wales Government announced its commitment to an asset recycling program which funded the Metro project.

As a part of their asset recycling program, New South Wales leased the ports of Sydney and Newcastle as well as its electricity distribution network. Proceeds from these leases, combined with incentive payments of \$AUD1.695 billion from Australia's federal government to New South Wales, have allowed for the delivery of more than \$AUD20 billion worth of new infrastructure projects.

Looking at how the asset recycling model could be applied here, our review of the top ten public toll road agencies in the United States values them at up to \$260 billion. After considering existing debt on these projects, we believe through an asset recycling-type program, these ten public toll agencies could generate as much as \$150 billion to support greenfield projects.

Conclusion

I'd like to again thank Chairman Barrasso, Ranking Member Carper and the committee members for inviting me to be part of this important dialogue.

Leveraging private capital to meet transportation needs is not a new or abstract concept. It's a proven approach that leaders – like our partners in Virginia – are putting to work in their communities to improve mobility, provide travellers more choices, create substantial jobs and generate larger returns on their transportation investments. Federal programs like TIFIA and PABs are helping to fuel these innovative projects – supporting critical improvements that are transforming some of our most congested cities, and many of which may never have been possible without these programs.

Congress has the opportunity to champion new policies that will build on the success of programs like TIFIA and PABs and provide meaningful opportunities for private investors to work alongside our partners in government to help rebuild America's infrastructure.



Questions from Senator Carper:

(1) Financing programs such as TIFIA are important tools to meet infrastructure needs but they do not replace federal grant funding. Would you agree with that statement?

Yes. Public-private partnerships and innovative financing programs such as TIFIA can be effective tools to help governments deliver more with tax dollars, but they are not a replacements for public funding. Long-term, sustainable public funding remains the critical foundation for the nation's transportation program.

Public funding, public-private partnerships and innovative financing tools can be combined to generate greater transportation outcomes than might otherwise be possible.

For example, Transurban – in partnership with Virginia -- has been involved in projects receiving TIFIA investment as well as federal grants. In the case of TIFIA, Transurban has seen the TIFIA program enable the Commonwealth of Virginia to leverage private capital to translate a \$492 million public investment into \$3 billion worth of transportation improvements. In 2016 Virginia received a \$165 million FASTLANE grant and is using it to leverage \$565 million in private capital to advance a number of multi-modal improvements across corridors in Northern Virginia.

(2) In response to a question from Senator Cardin, you indicated that in order to get projects through the TIFIA process more efficiently, one way the TIFIA Program could benefit is from added transparency. Could you elaborate on what you think might be helpful in promoting transparency to accelerate processing of TIFIA applications?

When developing major public-private transportation projects, sponsors must balance the financial impact of delays, risk allocation, the scope of improvements and the cost of financing. While TIFIA requires a draft term sheet relatively early in the process, project details inevitably change through the development and procurement processes. There remains uncertainty in terms, risk allocation, and timing of decisions associated with the TIFIA program. It is difficult for sponsors to anticipate when decisions will be made and to what extent final loan terms will be consistent or inconsistent with previous TIFIA loans. This makes it difficult to meet project timelines and can lead to substantially increased costs, including those related to escalating construction costs, interest rate changes and bond obligations to state partners that require strict deadlines for financing.

Administrative and policy solutions to address this issue could include the following:

- Publish an underlying risk framework and underwriting standards within which loans can be negotiated – providing a clear and more consistent road map for both the TIFIA team and its applicants.
- Provide sufficient administrative funding to support program growth and accelerated timelines.
- Require regular reporting on time required to advance a project from bid selection to financial close, to more effectively track timelines prescribed in MAP-21.



- Schedule and post regular and frequent TIFIA credit council meetings to facilitate timely and consistent decision-making.
- Prioritize high-impact projects that address critical transportation or safety needs, generate substantial economic impacts, and transfer material risk away from taxpayers.
- Prioritize projects that leverage private capital, whose investors often require greater certainty in process.
- Expedite reviews for projects with strong credit worthiness and experienced sponsors.

As mentioned at the July hearing, Transurban used the TIFIA program for both the 495 and 95 Express Lanes projects, and has seen first-hand how the program can deliver tangible benefits in leveraging private sector investment that creates confidence for both the public and private partners who are delivering the project. For our latest project, the 395 Express Lanes, we were confident that the TIFIA team would do everything they could to advance the process, but the risk of delaying financial close was too high. Fortunately, Virginia provided a loan from the Virginia Transportation Infrastructure Bank – a smaller, state-based program similar to TIFIA – so that Transurban could make the project work. Since the 395 Express Lanes project is not using TIFIA financing, Transurban is paying a higher cost for capital but in order to have a successful project we needed the confidence to ensure we could reach the financial close deadline that had been previously negotiated with our state partner. The decision to proceed without TIFIA was in no way a reflection on the TIFIA team, but on the commercial realities and risks assumed by project sponsors when advancing major transportation projects.

(3) In response to a question from Senator Carper, you stated that Congress may want to look at strategies to incentivize States to move projects forward for review within the TIFIA Program. What are some strategies you could offer that would create the right sort of incentive structure at the State level?

Federal transportation policy could provide meaningful incentives and assistance for states to move transportation projects forward. The federal government could provide technical assistance or technical grants to project sponsors who are applying for a TIFIA loan, reducing administrative costs or providing grants to cover the costs or undertake targeted outreach to states where shovel-ready projects exist. Additionally, greater transparency and certainty of the timeline could incentivize state borrowers.

While these reforms would be valuable, there is also a greater facilitator role that the federal government can play through an Asset Recycling program comparable to the one Australia has successfully implemented. Australia's Asset Recycling Initiative incentivized state and local governments to sell or lease public assets to the private sector to raise funds for infrastructure improvements. If a state privatized a public brownfield asset such as a port, electricity transmission or roadway, Australia's federal government paid the state government an additional 15 percent of the negotiated lease or sell price. To receive this payment, the state had to reinvest proceeds from the asset privatization into new greenfield infrastructure projects. In the 2016/17 year, the Australian federal government finalized



agreements with four states and territories worth ~\$3.2 billion, which will unlock \$23 billion in infrastructure spending.

Creating a similar plan here in the United States that incentivizes states to sell or lease their public assets to the private sector would allow states to burgeon their available resources for infrastructure spending.

(4) For Transurban, how much of the value from TIFIA would you ascribe to its low cost of capital, as opposed to features such as deferred repayment during project ramp-up?

The low cost of capital is an attractive part of the program but it's not just about the rate, it's about flexible terms that help sponsors better manage higher-risk stages of projects.

The greatest asset TIFIA provides is in the financing of projects considered risky. The 495 Express Lanes project could not have been financed without TIFIA given the unproven concept of managed lanes and the project's expected longer ramp-up period. Those first years of a new toll road project are filled with uncertainty as local drivers are cautious of the new rules of the road, hesitant to pay the cost of the toll, and stick to their normal commuting patterns. Five years into operations, the 495 Express Lanes is still in a ramp-up period and has not yet hit steady-state revenue levels. The flexible terms from TIFIA such as capitalized interest (Cap-I) during construction and flexible interest and principal payment terms during ramp-up have been invaluable to the 495 project.

Senator BARRASSO. Well, thank you very much for sharing your testimony.

Mr. Coes.

STATEMENT OF CHRISTOPHER COES, VICE PRESIDENT FOR REAL ESTATE POLICY AND EXTERNAL AFFAIRS, SMART GROWTH AMERICA, AND DIRECTOR, LOCUS: RESPONSIBLE REAL ESTATE DEVELOPERS AND INVESTORS, WASHINGTON, DC

Mr. COES. Good morning, Chairman Barrasso, Ranking Member Carper, and members of this Committee. Thank you for the opportunity to testify today on the importance of TIFIA and financing transit, transit oriented development, and local infrastructure projects.

I am Christopher Coes, Vice President at Smart Growth America, leading the LOCUS and TOD Finance and Advisor programs, representing billions of dollars in real estate assets ready to invest in America's crumbling infrastructure, while revitalizing its neighborhoods.

There is a pent-up demand for walkable communities in urban, suburban, and rural markets. According to a recent Smart Growth America report, in the country's 30 largest metro areas, walkable neighborhoods has a 74 percent price premium over non-walkable neighborhoods. Despite the obvious economic physical benefits, there are many barriers to meeting this demand, including financing the up-front costs of public infrastructure and development, particularly near transit stations and suburban town centers, and along rural Main Streets. If left unaddressed, this pent-up demand will drive prices higher, exacerbating the current housing shortage and creating more displacement.

Smart Growth America and LOCUS worked very closely with this Committee to ensure the FAST Act made significant improvements to the TIFIA program by expanding the project eligibility to include TOD and local infrastructure projects, as well as lowering the overall project threshold from \$50 million to \$10 million. These changes ensure that TIFIA can be used to facilitate greater private investment in both infrastructure and economic development.

Since the passage of the FAST Act, we have worked very closely with USDOT toward the implementation of these reforms. I welcome the opportunity today to share with you my perspective and some recommendations to help TIFIA meet its goals and bring in more private investment to the problem of public infrastructure.

Our first observation is that current prospective applicants are still unclear about TIFIA's project eligibility and its transportation and planning requirements. For example, there is an uncertainty on whether this current USDOT will accept statute allowing TIFIA to finance commercial development typically used to pay for public infrastructure. Without clear guidance or clear DOT policy guidance, the Bureau staff is very reluctant to move projects forward. This type of uncertainty is deadly to public-private partnerships.

Our second observation concerns the enormous transaction costs associated with applying. The TIFIA, by statute, requires projects to secure an investment-grade rating to demonstrate credit worthiness. This makes projects under \$75 million absolutely unworkable.

The cost of obtaining just one letter from a credit rating agency can range from \$300,000 to \$400,000, and it must be paid regardless if the loan is actually approved. This does not include the additional legal and financial consulting it takes to actually process a loan.

This Committee should allow applicants to demonstrate their credit worthiness using more economical and market tested methods like providing financial statements, project cash flows, or providing collateral.

The third observation is the need to provide greater outreach to small and rural communities. While the present Bureau staff provides great support, it is a DC operation that lacks a robust outreach capacity for project pipeline development, particularly for smaller towns and rural communities. Based on a lot of the work we do in these communities, we find that many of these communities are unaware of TIFIA, do not have the capacity to travel to DC, let alone apply for the program. This Committee should provide greater capacity to USDOT to do more targeted outreach to small towns and rural communities.

Last, there is a need to expand TIFIA's eligibility. Unlike the RRIF program, residential development is not an eligible component in the TIFIA program. Mixed use and mixed income TOD projects significantly increase transit ridership, allowing transit agencies to recover more of their costs from the fare box revenue than rely on taxpayer money. We urge the Committee to allow residential—specifically affordable and attainable housing—to be eligible.

Further, TIFIA's eligibility should be expanded to include some of the latest innovations in surface transportation, including broadband, green infrastructure, and supporting local revolving infrastructure funds.

In conclusion, I would like to thank the Committee for its support for the TIFIA program. I also appreciate the opportunity to share some of our ideas on how to accelerate the private investment into public infrastructure while rebuilding and building more inclusive and vibrant communities, which I believe is a clear win-win.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Coes follows:]



Christopher Coes
Vice President for Real Estate Policy and External Affairs
Smart Growth America

Christopher Coes is the Vice President for Real Estate Policy and External Affairs at Smart Growth America. Under his leadership, he oversees Smart Growth America's real estate programs including LOCUS: Responsible Real Estate Developers and Investors, the National Brownfields Coalition and TOD Finance and Advisors, Inc., a for-profit subsidiary of Smart Growth America.

Mr. Coes has led LOCUS and Smart Growth America's national and regional public policy and advocacy efforts on a range of issues including securing over \$20 billion in transit-oriented development and local infrastructure financing and a national complete streets policy included in the recent federal transportation legislation, FAST Act. Under Mr. Coes leadership, LOCUS has grown to become a national leader known to be unafraid to tackle some of the toughest challenges facing the smart growth real estate industry today. In 2014, Coes launched the Attainable Housing and Social Equity Initiative that has assisted local communities to develop place-based, market-driven strategies aimed at encouraging economic growth while ensuring accessibility and social equity in great walkable urban places.

Over the past three years, Mr. Coes has advised cities on community revitalization and sustainable and equitable economic development, including serving as an advisor to USDOT's LadderSTEP Pilot Cities (Atlanta and Baton Rouge). In addition, Mr. Coes has facilitated numerous deal-making opportunities that have produced over \$1 billion in new smart growth real estate deals.

Prior to joining LOCUS, Christopher served as a Consultant for Government Affairs and Campaigns at M+R Strategic Services. As a consultant, Christopher worked with various clients including Transportation for America – a broad, diverse and unprecedented coalition advocating for a national vision for a 21st-century transportation system. For three years, Christopher served as Transportation for America's Senior Campaign Advisor and Deputy Director. In addition to his work on transportation and real estate issues, Christopher brings over ten years of experience in government relations, advocacy and coalition building and program management. Mr. Coes currently serves as an active member of Urban Land Institute and serves as Treasurer and the Board of Directors Director of African American Real Estate Professional of DC.

Mr. Coes received a BA/MA in Government and Politics from St. John's University, specializing in Public Administration.

Testimony of Christopher A. Coes Vice President, Smart Growth America to the
U.S. Senate Committee on Environment and Public Works

Hearing on The Use of TIFIA and Innovative Financing in Improving Infrastructure to
Enhance Safety, Mobility, and Economic Opportunity

July 12, 2017

Chairman Barrasso, Ranking Member Carper and members of the EPW committee, thank you for the opportunity to testify today.

I am Christopher Coes, Vice President of Real Estate Policy and External Affairs at Smart Growth America and head a number of Smart Growth America's real estate programs, including LOCUS: Responsible Real Estate Developers and Investors, the National Brownfields Coalition and Transit-Oriented Development (TOD) Finance and Advisors, Inc., a for-profit subsidiary of Smart Growth America which provides TIFIA/RRIF consulting services to transit agencies and real estate companies.

Smart Growth America (SGA) is a national non-profit organization dedicated to researching, advocating and bringing better development strategies to urban, suburban and rural communities across the country.

Whether in urban, suburban or rural markets, there is pent-up demand for walkable communities with great amenities and a sense of place. According to a 2016 SGA report, in the country's 30 largest metro areas walkable development has a 74 percent premium over non-walkable neighborhoods. While communities, developers and transit agencies understand the enormous economic and fiscal benefits of walkable development they face many barriers to meeting this demand including financing the upfront cost of public infrastructure and development, particularly near transit stations. If left unaddressed, this pent-up demand will drive prices higher still exacerbating the housing shortage and leading to displacement.

SGA and LOCUS, working with this Committee and Congress in a bipartisan manner ensured the Fixing America's Surface Transportation (FAST) Act made significant improvements to TIFIA and Railroad Rehabilitation Improvement and Financing (RRIF) to give local communities the financing tools to rebuild their infrastructure and accelerate the creation of walkable communities. One of the most significant improvements made by the FAST ACT was expanding the project eligibility under TIFIA to include transit-oriented development and local projects as well as lowering the project threshold from \$50 million to \$10 million. These changes ensure that federal transit investments get the maximum return and provide P3 opportunities to improve public infrastructure. From the developers' perspective, TIFIA financing, because of its flexible repayment terms, is a critical tool to facilitate private investment to build economically thriving, transit-oriented development (TOD) that is affordable to the average American.

Testimony of Christopher A. Coes Vice President, Smart Growth America to the
U.S. Senate Committee on Environment and Public Works
July 12, 2017

We fully applaud the Committee's inclusion of TOD and local projects in TIFIA. TOD projects create many positive outcomes for both the private sector and the public sector – a clear "win-win."

Since the passage of the FAST Act, we have worked closely with the Build America Bureau (Bureau) towards the implementation of these reforms and I welcome the opportunity today to share with you our perspective on this work and ideas on how to ensure TIFIA continues to provide the financing tools needed to make the most of federal transit investments, meet the market demand for walkable development, and create public-private partnerships (P3s) opportunities to bring private money to the problem of public infrastructure.

Lack of a Clear TOD Policy Has Created Uncertainties for TOD Applicants

Immediately following the passage of the FAST Act, USDOT moved quickly to begin the implementation process of the FAST changes. In January 2016, USDOT held a roundtable with transit agencies and developers to discuss TOD and gather input on implementation. In March 2016, US DOT announced the notice of funding availability and request for comment to gather ideas on how to best implement the new FAST Act changes. In the last nine months, the LOCUS developer's coalition has arranged nearly a dozen meetings between prospective applicants (transit agencies, developers and localities) and the Build America Bureau. During those meetings, we have observed the Bureau staff's inability to provide answers or clarity on a range of applicant questions due to the lack of clear guidance from the previous or current US DOT leadership. For example, there is uncertainty on whether US DOT will maintain the broad interpretation of capital projects as described in the 49 U.S.C. 5302(3)(G)(v), particularly its ability to provide credit assistance for the construction of space for commercial uses. Or how US DOT intends to manage the TIFIA planning requirements given most TOD portions of a project not directly related to a transportation facility are not included in those plans and programs. Without clear guidance, the Bureau's staff is reluctant to move projects forward for fear that they may place the program at risk should a loan fail. As a result viable P3s sit there—ready to go on the private side—and in limbo on the public side. This type of uncertainty—uncertainty about timing—is deadly to P3s.

Recently, US DOT Deputy Secretary Jeffrey Rosen and his team met a number of prospective TOD applicants to hear their concerns regarding the overall process and made a commitment to provide guidance in the near future. While we are confident that US DOT will issue guidance very soon, this uncertainty raises the level of skepticism among potential applicants of TIFIA (or federal financing of TOD) as a viable option.

TIFIA Lender Risk

TIFIA has built a successful track record for approving loans with similar underwriting and traditional dedicated revenue streams like user fees and taxes. With the inclusion of TOD and local projects in TIFIA, these projects offer new revenue streams such as value capture and real estate generated revenues. It is crucial that US DOT and the Bureau have the best information

and expertise as it performs its risk analysis and conducts underwriting process evaluations to improve eligibility standards.

For example, during the underwriting process for the redevelopment of Denver's Union Station project, federal officials at the TIFIA office were skeptical that the established Tax Increment Financing (TIF) district around the station would provide the needed funds to repay a TIFIA loan. According to the federal government's risk analysis, the Union Station project would only create 100,00 square feet of retail – a taxable revenue stream - by 2019. However, according to private analysis, over 400,000 square feet of retail development had already been built within the TIF district, with another 1,000,000 square feet of retail development in the pipeline.

The failure to adequately capture the development potential of TOD projects will result in increased delays for applicants or trigger an overly pessimistic risk forecast, resulting in a larger credit subsidy than necessary. The Committee should provide funding for the Build America Bureau to obtain additional training or acquire support from other federal agencies with experience TOD projects, such as Department of Housing and Urban Development, US Department of Agriculture or the Economic Development Agency.

In addition, the Committee should move the Build America Bureau towards a portfolio approach when evaluating projects. Today, TIFIA uses a more project-based risk analysis, and this level of analysis creates a default selection criterion that favors a more risk-averse approach that makes innovation projects like TOD and local infrastructure, challenging. While maintaining sound underwriting requirements, we believe TIFIA should use a portfolio approach to analyze and aggregate risks by project type and try to achieve an overall balance of risk and return. These steps taken together will maximize the volume of credit assistance TIFIA provides over the life of the authorization while ensuring greater accessibility for smaller projects.

Reducing TIFIA Transaction Cost

Another significant challenge with the TIFIA program for TOD and local projects is the enormous transaction cost associated with applying for small projects. For example, TIFIA requires projects to secure an investment grade rating to determine creditworthiness. This requirement is a requirement that has always existed in the TIFIA program and is appropriate for large projects. However, when Congress reduced the project threshold from \$50 million to \$10 million the same large project requirements were applied. This makes small projects unworkable. The cost of obtaining one letter can range from \$300,000 to \$400,000 and must be paid whether or not the loan is ultimately approved. This does not include the additional legal and financial consultants required to process a TIFIA loan.

Smaller projects like TOD when compared to a traditional TIFIA project put relatively little capital at risk. Unlike the RRIF program and traditional lenders, TIFIA does not allow applicants to demonstrate their creditworthiness using other more economically and market-tested methods. This creates a significant cost barrier for smaller projects like TOD and local infrastructure. We urge the Committee to allow TIFIA, like the RRIF program, to waive the requirement for a credit rating letter for projects under a certain threshold and instead allow applicants to demonstrate their creditworthiness by providing collateral; the applicant's

Testimony of Christopher A. Coes Vice President, Smart Growth America to the
U.S. Senate Committee on Environment and Public Works
July 12, 2017

audited financial data (if available), including balance sheet, income statement, and cash flow statements; or cash flow projections from a project. Frankly, credit rating letters are not the means used by the private sector to assess these projects anyway, rather it is these latter means (balance sheet etc.) and this would bring the TIFIA program in line with industry practice.

Additionally, the Committee should encourage US DOT to develop an application process that is more user-friendly and streamlined for smaller projects. Specifically, create a streamlined “pre-approval online application” similar to conventional lenders where the applicant is able to submit project description, credit, financial and information and documentation and receive a pre-approval determination.

More Outreach to Small Towns and Rural Communities

The Build America Bureau’s staff supporting the TIFIA program is well respected across the country. Some of their staffers, like Roger Bohnert, Jodie Misiak and Duane Callender have gone above and beyond to meet with prospective applicants and to provide as much information possible. Yet, the Bureau is a Washington, DC-based office and lacks a robust outreach capacity for pipeline development, particularly from distressed, small town or rural communities. For example, in the last year Smart Growth America has provided technical assistance for dozens of small town and rural communities interested in rebuilding their infrastructure and revitalizing their downtowns. What we have learned from our work is that many communities particularly smaller towns and rural communities were either unaware of TIFIA, or did not have the capacity to travel to DC or afford the transaction cost to effectively apply for TIFIA loans.

This Committee should ensure that US DOT does more targeted outreach to small towns and rural communities that have not been successful in applying for TIFIA financing. This could be achieved by partnering with organizations like ours, the National Association of County of Officials or leveraging USDA Rural Development field staff to ensure these communities are aware of the opportunities available to them and ensure that they are educated on their eligibility and on how to successfully apply for TIFIA financing.

Expand TIFIA Project Eligibility

For the first time, the FAST Act made transit-supportive TOD projects eligible in TIFIA and RRIF. However, unlike the RRIF program, the TOD residential development is not eligible for TIFIA financing. Given that successful TOD projects contain a mix of uses that incorporate residential and commercial development into the same space, TIFIA has become a less attractive tool when compared to RRIF financing. We urge the Committee to allow TOD residential development (specifically attainable housing) to be eligible. New residential opportunities affordable to families with a range of incomes, coupled with expanded commercial and business development along a transit corridor, will increase transit ridership, allowing transit agencies to recover more of their costs from fare box revenue and rely less on taxpayer support.

In addition to including attainable housing as an eligible project, we believe TIFIA eligibility should be expanded to include the latest innovations in surface transportation and infrastructure such as broadband, autonomous vehicles, green infrastructure and infrastructure revolving funds. The inclusion of these projects will increase the volume of credit assistance and assist more communities to meet their unique infrastructure and financing needs.

Conclusion

In conclusion, I would like to thank the Committee for its leadership in making TIFIA more accessible to meet the needs of local communities by expanding project eligibility and lowering the cost threshold for TOD and local infrastructure projects. We believe that TIFIA can help communities harness the economic potential near transit stations while creating inclusive and safe neighborhoods. To fully take advantage of this opportunity it is crucial that the TIFIA program recognizes and accommodates the unique needs of TOD and local projects by providing clarity and certainty with the respect to the above-mentioned topics.

This Congress and this Administration has made infrastructure and rebuilding our American neighborhoods are major priority. Smart Growth America's real estate coalition, LOCUS, represent billions of dollars in real estate assets that stand willing and ready to invest in America's crumbling local infrastructure while creating economically vibrant and social inclusive communities near transit and passenger rail stations.

We hope to serve as a resource to the Committee and the Administration to ensure TIFIA achieves this shared goal.



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The Honorable Thomas Carper:

1. Financing programs such as TIFIA are important tools to meet infrastructure needs but they do not replace federal grant funding. Would you agree with that statement?

Yes, I agree with that statement. While TIFIA and other financing programs play an important role in advancing infrastructure projects, it is limited to only those projects that can generate cash flow or have dedicated revenues. The majority of infrastructure projects do not meet this prerequisite and are not appropriate candidates for public-private partnerships (P3). Instead, these projects require a sustainable, long term funding source. Federal grant funding remains essential to help states and local communities meet their own infrastructure needs.

2. The FAST Act reduced TIFIA funding by 70 percent. Has that reduction in funding depressed the market for public-private partnerships, led to states seeking other avenues to advance projects, sent private capital looking elsewhere or had any other impact? Please provide specific examples, if possible.

In the short term, I do not believe that TIFIA's reduced funding had an immediate impact on the public-private partnership (P3) market largely due to TIFIA's carryover authority. Additionally, the FAST Act provides a sufficient level of funding to support current projects in the TIFIA pipeline. In the mid- to long-term, the decreased level of TIFIA funding coupled with increased projects in the pipeline could constrain the P3 market for years to come due to the lack of certainty in funding availability for projects still in the planning stages.

The primary issue with the P3 market hasn't been funding or financing levels, it's educating states and local government on P3 legislation and procurement. Secondly, it's the lack of appropriate in-house financial and legal advisory support for states and local governments looking to develop P3's. Lastly, a major impediment to the P3 market is the length of time it takes to assemble funding sources and navigate through the planning, environmental and permitting processes necessary to advance projects.

3. TIFIA offers an opportunity to address infrastructure financing challenges facing local communities, including the potential for locally-generated investment funds and cooperatives. What recommendation should Congress consider to ensure local stakeholders can effectively utilize the program?

To level the playing field for local communities and stakeholders to access TIFIA financing, Congress should consider expanding eligible applicants to include lenders and capital funds, while expanding project eligibility to include public and privately sponsored infrastructure revolving funds, including transit-oriented development revolving funds. For example, an applicant entity (which may include special purpose entities established and controlled by eligible entities) would seek an authorization from TIFIA to participate as an eligible lender. Rather than underwriting each project in the applicant's portfolio, TIFIA would underwrite the organization – making a determination as to how much the organization can draw from TIFIA. Once selected as an eligible TIFIA lender, the applicant would then



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submit a draw request, as projects are ready for financing. The lender would be responsible for determining that the project meets all eligibility criteria (e.g., site eligibility, credit requirements) and, if deemed appropriate, provide certifications pertaining to project eligibility (including that it meets established DOT underwriting criterion) prior to drawing funds.

Further, Congress should consider providing US DOT additional resources to help reduce or defer the transaction cost for projects. In addition to resources, Congress should allow TIFIA applicants to demonstrate creditworthiness in lieu of a credit rating letter by providing collateral, financial data or cash flow projections. Lastly, US DOT should develop an application process that is more user-friendly and streamlined for smaller projects and by project type. Specifically, Congress should encourage TIFIA to create a (1) transparent, streamlined "pre-approval online application" similar to conventional lenders where the applicant is able to submit project description, credit, financial and information and documentation and receive a pre-approval determination. Taken together, this will maximize efficiency and minimize legal fees.

4. How can TIFIA financing or public private partnerships be better leveraged to support emerging innovations and "smart cities"?

TIFIA financing or public private partnerships can be better leveraged to support emerging innovations and "smart cities". Congress should consider expanding eligibility to include some of the latest innovations:

- 1) Transit-Oriented Development (commercial and attainable residential)
- 2) Connected and automated vehicles V2I/V2X technologies such as Dedicated Short Range Communications, Roadside units, signal timing priority, signal phase and timing, etc.,
- 3) Technologies that provide vehicle tracking, emissions testing, weather and other sensing capabilities to enhance real-time and archival situational awareness. Integrated planning and payment systems including transit, shared mobility, parking, etc.,
- 4) Public WiFi, dynamic messaging and transit information screens at all bus stops, transit stations, etc.

Congress should also consider granting the US DOT Secretary authority to finance innovative projects not included in TIFIA's eligibility statute on a pilot basis with Congressional oversight. This authority will enable US DOT to be more responsive to the rapid changing landscape in surface transportation. The inclusion of these projects and new authority will increase the volume of credit assistance and assist more communities with meeting their unique infrastructure and financing needs.

5. Not all transportation projects are created equal when it comes to their ability to create new jobs, expand the gross regional product, increase property values and tax bases, and improve the overall quality of life of Americans. What should Congress consider to ensure that programs like TIFIA & RRIF lead to environmental, economic, and social outcomes that get the maximum return and leverage P3 opportunities?

Projects come in different shapes and sizes, and will have different impact on the communities they serve. To ensure that programs like TIFIA & RRIF have sustainable, equitable and economic outcomes



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that maximize return and leverage P3 opportunities, Congress should target funds toward genuinely high-value transportation investments that 1) deliver long-term benefits in terms of improved efficiency and productivity by reducing costs associated with congestion and environmental damage 2) leverage private dollars 3) help ease unemployment, and 4) produce long-term gains for the nation's economic future. Congress should also expand incentives to encourage projects that provide greater economic, social and environmental outcomes such as increasing TIFIA's credit assistance threshold from 33-49% to 75-100%.

6. While creditworthiness should always be the baseline for an award of credit assistance, extreme weather events have created a heightened need – particularly in coastal States – for more resilient infrastructure. Would it be beneficial for Congress to include objective evaluation criteria to ensure climate resiliency to protect the public investment over the long-term? What other policy characteristics, if any, might be helpful in creating a more performance-based program?

Yes, it would be beneficial for Congress and the Administration to include an asset management criterion to evaluate projects applying for credit assistance. There are two types of criteria that could be considered: maintenance of effort criteria and outcome criteria. Most important are the maintenance of effort criteria. Congress should require those who receive credit assistance to demonstrate that they can maintain the asset once built. Applicants should also demonstrate that maintaining that asset will not jeopardize maintenance of their system, if applicable.

Congress might also consider other measures, like whether the asset can withstand expected severe weather occurrences, climate change or if the project supports the national goals listed in 23 USC 150. This would ensure that federal funds are not being wasted on communities with no long term economic or climate resilience plan.

7. What safeguards should be put in place to ensure foreign entities purchasing local assets do not have unintended national security or consumer protection consequences when using public dollars?

The Committee on Foreign Investment in the United States (CFIUS) is authorized to review transactions that could result in control of a U.S. business by a foreign entity. We would suggest expanding this committee to include a panel that would review infrastructure specific deals, that if transit related infrastructure is purchased by parties outside of the United States, would be closely reviewed in order to make certain that safety of the public defense or economy a priority.

8. You mentioned that a "portfolio approach" may help local communities to better leverage TIFIA. Could you elaborate on what legislative or administrative changes to the TIFIA Program would enable the program office to take such an approach?

Today, TIFIA uses a more project-based risk analysis. This level of analysis creates a default selection criterion that favors a more risk-averse approach that makes innovation projects like TOD and local infrastructure challenging. While maintaining sound underwriting requirements, we believe Congress should encourage USDOT to develop a credit risk management process to analyze and aggregate risks by project type (i.e., rural, small, TOD) and try to achieve an overall balance of risk and return



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comparable to the existing credit risk threshold. By combining different types of projects and fostering synergy between infrastructure investments, a diversified portfolio with good financial returns on some projects would compensate for (cross-subsidies) the higher risk projects, which nevertheless achieve good non-financial social and economic impacts. Inherent in this approach would be an explicit acknowledgement that US DOT would be taking on more credit risk to advance critical projects focused on socio-economic impact and benefits than just financial. These steps taken together will maximize the volume of credit assistance TIFIA provides over the life of the authorization while ensuring greater accessibility.

Senator BARRASSO. Well, thank you very much for your testimony and that of all of the members of the panel today.

Ms. Mayer, you talked about how the TIFIA funding had benefited Riverside County Transportation Commission in terms of your ability to plan, to program, to deliver major transportation improvements. I think you pointed out that you were able to avoid delays and additional expenses all because of the way that the system worked.

You recommended, I think, keeping the rolling application process going. I am wondering, are there things that you would share in terms of any programmatic hurdles you might have experienced in applying, and what we could do better if you had an opportunity to change anything about the process for applying and for receiving the funding? Are there some changes that we ought to be looking at?

Ms. MAYER. Thank you, Senator. I definitely think that the change to a rolling application process was a huge improvement in the program. There is also a process in advance of the formal application, it is the letter of interest process, and it is an important step.

However, that process does not have schedule certainty, so I would make a recommendation that the letter of interest process have some schedule certainty to it so that project sponsors can anticipate how long that process will take, as well as start to identify how much it might cost. So I think that that would be an important improvement.

Senator BARRASSO. So when someone put in a letter of interest, they would have a pretty good understanding of the timing it would take until they would hear back. Should we set a specific amount of time? What are your thoughts there?

Ms. MAYER. I would recommend that you do. In the FAST Act there is statutory requirements for reviews on the applications themselves, so I would recommend a similar policy or statute that would put deadlines and timelines in for the letter of interest process as well.

Senator BARRASSO. Thank you.

Ms. Aument, you have experience working to advance large scale transportation projects, Virginia 495 and 95 Express Lanes. We are talking about legislation to improve the infrastructure, both urban and rural. Do you have any thoughts on how we could assist small projects, rural agencies, to make better use of the investments and the leveraging opportunities?

Ms. AUMENT. Thank you, Senator. You know, first and foremost, the large urban projects, like the ones that I have described, do go a long way into help supporting rural communities as well, and how they do that is, if you look at a project like 95, where Virginia was able to get 110 times their investment, that really helps their public dollars go much further and frees up resources that then they can direct to communities that may not have multi-billion dollar Express Lane project potential. So that is the first important role that these projects can play, and TIFIA has certainly enabled that.

Our advice to rural communities and rural States across the country is to, one, engage the private sector in helping to look at

the assets that you may have and find more creative ways to make them viable for private investment. One thing that we have seen and is happening successfully in States like Pennsylvania with their bridges program, Kentucky with their broadband program, is while an individual project, in Pennsylvania, for instance, a bridge project, might not be viable as a candidate for private investment, by bundling a series of smaller projects, it can develop a system or a network that may be a bit more suitable candidate to this kind of private investment.

Senator BARRASSO. Because, as you mentioned, 110 to 1 of the ratio. We are informed that for every Federal dollar through the TIFIA program, it leverages, on average, about 40 to 1. So you had an incredible response there and success.

Talk a little bit more about how the ratio depends on project size and what a rural transportation agency undertaking a smaller scale might expect. You talk about bundling projects together. I don't know if you have additional thoughts on that.

Ms. AUMENT. Definitely. I think what you are going to see is, first and foremost, the opportunity to leverage a dollar into two dollars. With the critical transportation needs that we have in this country, we will certainly want to look at policies that provide as many opportunities as possible to take those dollars as far as they will go. That is really going to range on the size of the project. It is going to range on the level of private participation on the project, the risk profile of the project, and again, will range across the board.

If you look at 495, for instance, for every TIFIA dollar we delivered \$20 of private capital and then \$40 of transportation infrastructure. And I think, again, you will see that range across the country and across different kinds of projects with different risk profiles and sizes.

Senator BARRASSO. Thank you very much.

Senator Whitehouse.

Senator WHITEHOUSE. Thank you very much, Chairman. I want to thank you for holding the hearing, and I want to thank the witnesses for coming in.

I would like to mention a few things. First is that I think on our side we are very eager to work with the Administration on an infrastructure bill. The Committee held a hearing not too long ago with Secretary Chao, who said that she would have the outline of an infrastructure bill to us shortly, and we eagerly await that outline so that we can begin to work. I do think that there is a role for TIFIA and its water cousin, WIFIA, in such a bill, but I think we also have to be aware that these programs are not a sufficient solution, although they are necessary.

Rhode Island has actually seen very little use of TIFIA, and none of WIFIA, partly because the organizations that would take these projects on very often have debt capacity that is available to them; they have different ways that they can borrow money. They don't want to borrow more money. What they are looking for is more support. And if they are borrowed out, then it takes WIFIA and TIFIA a little bit off the table or reduces the viability.

In a small State, smaller projects can also be burdened by the enormous overhead of getting through the WIFIA and TIFIA proc-

ess. So if you are building something enormous, like the Express Lanes through Virginia that millions of people are going to drive down, then that is one thing. So I think we are going to be looking at the WIFIA and TIFIA programs, if they reappear in this bill, and ways to try to make them more accessible to smaller States and to make them more competitive with other forms of borrowing.

The other thing that I want to mention, since today appears to be the day that the massive ice shelf has broken off the Antarctic, the way the physics of that works is that when the ice shelf breaks away, it is like a dam that has been holding back the land-borne ice, which then accelerates its flow.

I know ice doesn't go very fast when it flows, but if you look at the sped up film of glaciers, you can see they really look like slow motion rivers running into the sea. So we are going to see, as this dam of ice shelf breaks off, heightened travel of land-borne ice and snow into the sea, and that is going to continue to raise sea levels, and all of that continues to put pressure on coastal States like Rhode Island.

So I hope very much that, as we look at WIFIA's and TIFIA's, we can at least be thinking about the prospect of a coastal IFIA, because the power of the ocean against the land is an astonishing thing, and the damage that it can do when it comes ashore, powered up by storms, lifted by sea level rise, is really significant. It requires planning in advance to be able to do the protective measures that are necessary, whether they are hardening of infrastructure or whether they are protecting dunes and marshes and other ameliorating natural infrastructure that can protect the upland, or whether it is being able to respond when bad things happen and you have to do things that I have had to do, like walk down the beach in Rhode Island and see people's houses in the water and see a legacy of many generations that has gone to that home for seaside recreation lost irrecoverably to the seas.

So whether it is roads or other types of infrastructure, very often sewage facilities are downstream so they can take advantage of gravity. If you are a coastal State, that means that they tend to be located near the water level, and that tends to be near the coast, and that puts them in harm's way, and that means that they are infrastructure that needs attention.

And we are actually looking, Mr. Chairman, at things like having to figure out ways to relocate emergency vehicles, because in a bad storm the roads that serve neighborhoods can be blocked off by high water, and as we, I think very unfortunately, saw in New Jersey or New York, if you can't get the fire trucks through the water to the neighborhood and a fire goes off, then it just goes catastrophic in a hurry.

So we are having to look at our emergency infrastructure in Rhode Island to make sure that, at 6 or 7 feet of sea level rise or in 100-year storm conditions, we haven't walled our citizens off from the emergency services that they pay for.

So it is a really serious issue for Rhode Island and I think other coastal States to address the problem of the new pressures on our coasts of storms and seas, and I look forward to working with all of my colleagues and with the organizations that are represented here to try to make sure we do a good job of that.

And I thank the Chairman for holding this important hearing.

Senator BARRASSO. Thank you, Senator Whitehouse.

Senator BOOZMAN.

Senator BOOZMAN. Thank you, Mr. Chairman, and thank you all for being here. This has been a great hearing.

Ms. Mayer, there is lots of talk around Washington about reducing the amount of time it takes to obtain permits and get projects built. Can you talk about some recommendations that you have for reducing permitting timelines without sacrificing environmental protections, public transparency, or other public interest?

Ms. MAYER. Certainly.

Senator BOOZMAN. I think a great example of that would have been the bridge that was rebuilt in Minneapolis, when it collapsed, which was done in a year, and that project probably would have taken 20 years.

Ms. MAYER. Correct. And the challenge is trying to bring that sense of urgency to projects that are delivered on a non-emergency basis.

I am very proud that Riverside County is home to two habitat conservation plans, and we believe that the use of habitat conservation plans to have advanced mitigation for transportation projects really does not only allow us to protect the environment, but it also allows us to get our projects delivered.

The Western Riverside County Habitat Conservation Plan was implemented well over a decade ago. The State and Federal resource agencies are signatories to that plan as well. We have put over 400,000 acres into conservation, protecting 146 species, and what it has done for transportation projects is make sure that our transportation projects can get through a process in a rapid timeline.

We have shortened the environmental process by, on average, 2 years by using the habitat conservation plan. So we have a decade's worth of proof that it is possible to build projects and protect the environment. It is possible to have streamlining at the same time we have conservation that really is meaningful.

Senator BOOZMAN. Now, that is a good story. What has that done to your cost in the sense of getting these projects done in an expeditious way?

Ms. MAYER. It has really reduced the cost not only of the delay in a project environmental process, but also in terms of having mitigation on a project by project basis. That can be very costly, and it sometimes is not very effective. So by having an up front contribution to the habitat conservation plan, which our sales tax measure did, by having that up front contribution, we get the investment in the land up front, and we believe that it has saved us millions of dollars both in real costs, as well as time.

Senator BOOZMAN. Very good.

Mr. Coes, you mentioned that broadband should be eligible under TIFIA. How do you envision TIFIA being able to help communities complete those important broadband infrastructure projects which have become a necessity these days?

Mr. COES. Well, particularly in rural communities, broadband is an essential tool to be connected to the broader economy, and what we are finding with a lot of the real estate developers we are work-

ing with is that it is a vital asset to redevelopment, and we believe by adding broadband as an eligibility, you now incentivize communities, along with their private sector actors, to bundle projects together to actually bring those types of services to those communities.

Senator BOOZMAN. Good. And you mentioned in your testimony that we needed a more targeted outreach for small towns because they simply don't understand the benefit of TIFIA. What would be your recommendation? How can we see the TIFIA program more utilized?

Mr. COES. Well, I, for one, am very supportive of interagency collaboration. Today, USDA, Department of Agriculture, actually has an enormous field staff on the ground, and I believe if USDOT works collaboratively with USDA, we can be able to provide those resources directly to those communities.

Senator BOOZMAN. Very good.

Ms. Mayer, do you agree that while programs such as TIFIA are important, there is need for direct Federal funding for transportation programs? This is especially important for States like mine, where TIFIA may not be a viable option, given a very rural nature in much of our State.

Ms. MAYER. Absolutely. TIFIA is a wonderful tool, and we will use it on the projects where it makes sense to do so, but not only is our agency dependent on, and do we rely on those direct Federal grants, but so do all of our cities, as well as the counties. So, absolutely, Federal grants are very, very important.

Senator BOOZMAN. Thank you all.

Thank you, Mr. Chairman.

Senator BARRASSO. Thank you.

Senator Cardin.

Senator CARDIN. Thank you, Mr. Chairman. I thank our witnesses for their testimony.

The TIFIA program is very important in all States, and Maryland has utilized it for some very important programs. We are now using it in our Purple Line for transit, which is a major commitment of funds, and the TIFIA is one part of that equation. Without that, it would be difficult to see the project move in the manner that we hope that it will, with 16 miles of track and 21 new stations, which is critically important to the Washington community.

So I recognize its importance, and I understand that there are certain standards that have to be met for a project to be eligible. But I want to get your thoughts. Senator Cochran and I have worked long and hard to preserve transportation alternative programs so that you can—as you do transit infrastructure, you are able to enhance local communities, that they can have pedestrian and bike paths, that they can have the types of enhancements that are important for a community to continue to grow and thrive.

I know that there are certain restrictions in the TIFIA program which are challenging for these types of projects because of the size requirements, et cetera. Do you have any suggestions on how we could make the TIFIA program more appropriate for these types of projects, particularly that are desired by our local governments? They are the ones, in my view, that have the closest understanding

of the needs in their community. How can they better utilize this? Is there something we can do to make it easier?

Mr. COES. Senator Cardin, thank you for that question. First, thank you for your leadership on this issue. I know we worked very closely with your staff on the Complete Streets policy that has been really critical to advancing and providing pedestrian safety across the country.

The simple answer to that is in the FAST Act we were able, working with Rails to Trails, lower the threshold for projects to \$10 million for those types of projects. However, one of the challenges we are still seeing is the fact that the TIFIA program only provides gap financing. We believe for these types of projects, and rural projects as well, if we allow TIFIA to take a higher level of the percentage of the total project cost, it would be more advantageous for these types of projects.

In addition, I cannot emphasize enough the level of transactional costs that comes with applying for TIFIA. As I mentioned before in my testimony, just getting an investment grade rating takes about \$400,000. And for a lot of local communities that are budget strapped, that is an enormous hurdle. And I believe that one of the opportunities that we have is to provide more resources so local communities can actually reduce that cost barrier.

Senator CARDIN. Yes, ma'am, did you want to respond?

Ms. AUMENT. I was just going to add, Senator, if I may, that the policies of this Committee have expanded the eligibility of TIFIA into new projects, including community projects. What we found is that you now have a potential backlog of projects, because it takes about the same amount of resources to do underwriting for a \$10 million project as it does for a \$3 billion project.

So looking at not just expanding the eligibility, but ensuring the TIFIA program has the administrative funding it needs to manage that, and also getting those projects, both small and large, through the program more efficiently. That means transparency in process; it means really an underwriting risk framework to guide decision-making, and prioritizing projects where there is a particular need for time sensitivity, like when private capital is involved. Those kinds of reforms, along with expanding eligibility for different projects, will make sure that all projects, large and small, can move through the process quickly.

Senator CARDIN. So here is how we need you to help us. Let's say I run a small business, an entrepreneurship committee, and we look at ways in which we can make costs less for small business, recognizing that their transactional costs can mean the difference between business and going out of business. It seems like we have a similar problem here because those underwriting costs are just not manageable for a relatively smaller project, and the delay issues means that it is fatal, rather than just delaying the project.

So, can you help us with how we could address that problem, perhaps for certain defined projects, the smaller projects, so that we don't have that type of cost and delay?

Mr. COES. Absolutely.

Senator CARDIN. Would you get us that information?

Mr. COES. Absolutely.

Senator CARDIN. I would welcome that, because I think all of us want particularly the reduced transaction costs for our local governments that are working on much tighter budgets and much tighter timelines than perhaps a major expansion of a transit system or a major transportation infrastructure project.

Mr. COES. Absolutely.

Senator CARDIN. Thank you, Mr. Chairman.

Senator INHOFE [presiding]. On behalf of the Chairman, we recognize Senator Wicker.

Senator WICKER. Thank you. I do appreciate that.

[Remarks made off microphone] tax-exempt facility bonds. These bonds provide a number of benefits and opportunities for private-public partnerships, but road and bridge projects are currently excluded. Is that correct?

Ms. MAYER. Senator, I didn't hear the first part of your statement.

Senator WICKER. With regard to tax-exempt facility bonds.

Ms. MAYER. I am not familiar with the use restrictions on tax facility bonds. I would have to check that and get back to you, and we can certainly do that after the hearing. I apologize.

Senator WICKER. OK, is anyone on the panel familiar with whether road and bridge projects are currently eligible for tax-exempt facility bonds?

Ms. AUMENT. Senator, I can actually speak not to that specific bond, but to private activity bonds, which is a form of tax-exempt bonds that have been used very successfully in public-private partnerships. There is a limitation on private activity bonds right now which we believe is handicapping the market in terms of opening up opportunities. Currently, they are only allowed for greenfield or new projects. Expanding private activity bonds to include more innovative projects, a larger number of projects, and brownfield projects we believe will go a long way to help build the pipeline and provide opportunities for private investment here in the U.S.

Senator WICKER. OK. And who can speak to me about revenue streams with regard to the FAST Act, and particularly my interest in rail service between New Orleans and Orlando?

Mr. Coes, let me ask you, then. The FAST Act mandated that the FRA convene a working group to evaluate the restoration of intercity passenger rail between New Orleans and Orlando, a corridor that was significantly impacted by Hurricane Katrina. Transportation options are essential to economic development for rural areas.

However, startup projects such as these will likely take a good deal of time to build up large enough user bases to generate the revenue stream. So what funding mechanisms can medium sized municipalities and medium sized local communities use to fund projects like passenger rail service?

Mr. COES. Well, thank you, Senator, for that question, and Senator, again, thank you for your support for the rail. As you know, Transportation for America, with John Robert Smith, is a huge advocate, has been working on this issue for a long time.

Senator WICKER. Old friend of mine.

Mr. COES. Old friend of all of ours, sir.

With that being said, one of the recommendations I outline in my written testimony is the fact that we are increasingly finding that private developers, who I work with, are willing to bring private capital to the table to allow these infrastructures to move forward. However, right now, currently, RRIF program provides residential and commercial development opportunities to do that.

However, in the TIFIA program there is not that ability to allow private developers to bring their residential and commercial revenues to the table to help finance those projects. So I think one of the immediate recommendations would be to make the TIFIA and RIFIA program both copasetic to allow more real estate revenue to be allowed to help provide more funding for these infrastructure projects.

Senator WICKER. And what is it going to take to do that?

Mr. COES. Statutory change.

Senator WICKER. I see. Well, I would certainly like to work with other members and with the panelists in that regard. Thank you very much.

Mr. Chairman, thank you for your indulgence.

Senator BARRASSO [presiding]. Thank you, Senator Wicker.

Senator Carper.

Senator CARPER. I am happy to yield to Senator Duckworth. Thank you.

Senator DUCKWORTH. Thank you, Mr. Chairman.

Thank you, Senator Carper.

I want to thank the Chair and Ranking Member for convening today's hearing, and I want to thank our witnesses for participating in this very important conversation.

Mr. Chairman, our nation's infrastructure is crumbling. I appreciate this Committee's engagement to address this challenge, but a 21st century transportation system is simply not going to materialize without the full and coordinated engagement of Congress, the White House, and our States.

We are 7 months into the Trump Administration, and we still haven't seen any meaningful details of the President's infrastructure plan. In fact, the President's budget proposal is a net negative for infrastructure investment, cutting nearly \$150 billion from critical programs over the next decade.

Mr. Chairman, I would like unanimous consent to insert the President's budget document into record.

Senator BARRASSO. Without objection.

Senator DUCKWORTH. Thank you.

[The referenced information follows:]

Trump Budget Infrastructure Analysis FY2018

Not only does President Trump's Budget fail to make good on his \$1 trillion infrastructure promise, startlingly it also slashes funding for a number of existing infrastructure programs including **over \$96 billion in cuts directly to the Highway Trust Fund.**

Trump's budget does propose \$200B for his new private sector focused infrastructure plan - however **he proposes paying for that plan by cutting existing road, bridge, and transit spending.** Rather than providing any increase in infrastructure spending to address with the \$2 trillion national infrastructure backlog, President Trump proposed cutting existing dollars from States, Cities, and local communities and using those funds to pay wealthy hedge funds and Wall St. to build more toll roads.

Trump Budget Infrastructure Budget Summary (in billions)

Year	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	TOTAL
Trump Budget Infrastructure Proposal	5	25	40	50	40	20	10	5	5	0	200
Trump Budget Infrastructure Cuts (break out in the chart below)	-10.3	-10.6	-10.7	-11.8	-16.5	-26.2	-27.9	-29.3	-30.8	-31.8	-206
Current Infrastructure Shortfall (HTF)	0	0	0	-8	-19	-20	-22	-22	-24	-24	-139
Total Investment Above Current Levels	-5.3	14.4	29.3	30.2	4.5	-26.2	-39.9	-46.3	-49.8	-55.8	-144.9

Detailed Breakdown of Trump Budget Cuts to Infrastructure (in millions)

Year	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	TOTAL
Cuts to Highway Trust Fund				-919	-5,546	-15,164	-16,833	-18,156	-19,436	-20,399	-96,453
Cuts to the US Army Corps of Engineers	-1,100	-1,100	-1,100	-1,100	-1,100	-1,100	-1,100	-1,100	-1,100	-1,100	-11,000
Cuts to TIGER	-500	-500	-500	-500	-500	-500	-500	-500	-500	-500	-5,000
Cuts to Capital Investment Grants (New Starts)	-1,200	-1,502	-1,637	-1,812	-1,866	-1,962	-2,012	-2,112	-2,312	-2,325	-18,740
Cuts to Amtrak	-760	-760	-760	-760	-760	-760	-760	-760	-760	-760	-7,600
Cuts to Other Rail Grants (CRISI, Fed-State Partnership)	-42	-42	-42	-42	-42	-42	-42	-42	-42	-42	-420
Cuts to EDA	-207	-207	-207	-207	-207	-207	-207	-207	-207	-207	-2,070
Cuts to CDBG	-3,060	-3,060	-3,060	-3,060	-3,060	-3,060	-3,060	-3,060	-3,060	-3,060	-30,600
Cuts to HOME	-950	-950	-950	-950	-950	-950	-950	-950	-950	-950	-9,500
Cuts to Public Housing Repairs/Revitalization	-1,451	-1,451	-1,451	-1,451	-1,451	-1,451	-1,451	-1,451	-1,451	-1,451	-14,510
Cuts to USDA Water Infrastructure Program	-500	-500	-500	-500	-500	-500	-500	-500	-500	-500	-5,000
Cuts to Superfund Cleanup	-326	-326	-326	-326	-326	-326	-326	-326	-326	-326	-3,260
Cuts to the Brownfield Program	-34	-34	-34	-34	-34	-34	-34	-34	-34	-34	-340
Cuts to the St. Lawrence Seaway	-7.6	-7.6	-7.6	-7.6	-7.6	-7.6	-7.6	-7.6	-7.6	-7.6	-76
Cuts to the Appalachian Regional Commission (ARC)	-125	-125	-125	-125	-125	-125	-125	-125	-125	-125	-1,250
Cuts to the Northern Border Regional Commission (NBRC)	-9	-9	-9	-9	-9	-9	-9	-9	-9	-9	-90
Cuts to the Delta Regional Authority	-22	-22	-22	-22	-22	-22	-22	-22	-22	-22	-220
TOTALS:	-10,294	-10,596	-10,731	-11,825	-16,506	-26,220	-27,939	-29,362	-30,842	-31,818	-206,129

Senator DUCKWORTH. Instead of creating jobs that boost local, regional, and national economies by rebuilding our roads, bridges, and water systems, President Trump and congressional Republicans made the conscious decision to prioritize eliminating health care for 20 million Americans and providing tax cuts for the wealthy.

Mr. Chairman, the opportunity costs of inaction are simply skyrocketing, born by a distracted White House and an uncoordinated Congress.

Tomorrow, Senator Carper and I, along with Senators Stabenow, Booker, and others, are holding a roundtable discussion to highlight the nexus between water quality and public health and the challenges many communities face regarding drinking water and wastewater investments. Water infrastructure by itself requires an estimated \$650 billion in investments over the next 20 years, and I invite all of my colleagues to come and participate.

We are simply just scratching the surface of addressing our infrastructure needs. In the process, men and women across America are missing out on jobs that would be created through investments.

Earlier this year, Senate Democrats put forth a common sense blueprint for addressing these challenges, and it is my hope that today's hearing, and others like it, are bearing the case for robust investments that prioritize safety, public health, and jobs creation.

Ms. Mayer, your written testimony suggests that financing tools like TIFIA and public-private partnerships are critically important, but are no substitute for traditional grant funding. I agree with you. Financing mechanisms are important, but you still need that core investment to leverage other dollars.

The President's fiscal year 2018 budget proposes cuts to infrastructure programs across the board to about \$150 billion over 10 years. In your opinion, what would be the consequences to communities just like yours should the President's proposed budget cuts ever be enacted? Would it help or hurt?

Ms. MAYER. The loss of Federal grant funding would be very detrimental to our ability at the regional level, as well as at the local level, to get our projects built. There simply isn't sufficient funding to be able to build the projects that we need. We are fortunate we have a local sales tax measure that brings in revenues that we can use to build our projects, but it is simply not enough; we need the Federal grant program.

Senator DUCKWORTH. And do you have projects that have low or simply no returns on investment that would be outside of any type of a public-private partnership? You can't get people to come in and invest in filling potholes, right?

Ms. MAYER. Most of our projects are outside of the type of eligible projects that we would consider for a TIFIA process, whether those be local road projects, widening projects, commuter rail. We were just talking about rail projects as well. Most of those are outside of those types of programs, so we would absolutely see a need to make sure that we had those Federal grant programs going. And it is particularly critical for us in our rural areas. Riverside County has both urban and rural areas. Those rural jurisdictions definitely count on that funding just for the most essential services and projects.

Senator DUCKWORTH. Thank you.

Mr. Coes, in your opinion, does the Trump budget help or hurt efforts to expand transit oriented development?

Mr. COES. Currently, the proposed budget would be a setback for transit oriented development partly due to the fact that a lot of the funds that are coming through HUD and DOT actually provide some of the necessary subsidies to allow communities to build those local infrastructures. In addition to that, the current Administration has the opportunity to actually implement the current changes in the FAST Act that could also help in that area as well.

Senator DUCKWORTH. Thank you. In your written testimony, Mr. Coes, you highlight some of the challenges that rural communities face in addressing their infrastructure needs through programs like TIFIA. People think of Illinois and they think of Chicago, but they don't realize how large a State I represent and how it is mostly rural, with Chicago in one end of it.

Of the five TIFIA leveraged projects in Illinois, all of them are in the Chicagoland area. With the Administration's preference for incentivizing more private investments in infrastructure projects, rural America is likely to lose out.

What can we do, Mr. Coes, to ensure more attention is paid to rural communities in the context of financing opportunities like TIFIA?

Mr. COES. There are two recommendations I would put on the table. First, USDOT should collaborate directly with the Department of Agriculture, who have field staff on the ground in those communities to better leverage the program. And the second would be to allow the TIFIA program to actually be open to more local infrastructure revolving funds like CFIs, who are actually on the ground in these communities who can be able to distribute those funds much more readily and easier.

Senator DUCKWORTH. Thank you.

I do want to note for the record President Trump's budget actually eviscerates the U.S. Department of Agriculture's Rural Development Office, including zeroing out infrastructure and small business funding and eliminating the Undersecretary for Rural Development. I don't see how we can move forward with those cuts.

Thank you so much, and I yield back, Mr. Chairman.

Senator BARRASSO. Thank you very much.

Senator Inhofe.

Senator INHOFE. Thank you, Mr. Chairman.

I noticed, when you were giving your opening statement, Ms. Mayer, that you listed many of the things that we have done, going back even before MAP-21, to try to get more projects done. I thought, and I commented to the Chairman, I said the one thing she left out in her list was streamlining. Then later you corrected that when you responded to a question from Senator Boozman.

But I think it is important that we get into that, and I would like to hear from each one of you, because this became a very contentious thing. When I chaired this Committee and we were able to do two or three of these, Senator Boxer and I, we had a disagreement, and finally we worked it out so that that agreement did work. In fact, we had the program, the TAP Program, that is a good example, where 2 percent would be going to ART, and then

that was changed, so that was expanded a little bit when we did our FAST Act.

So I would like to have the three of you just make any comments you want to make about the significance of streamlining in these projects.

Ms. MAYER. The importance of streamlining can't be overstated. It has been a basic principle for my board's platform for well over a decade in that we have to continuously find ways to do things faster and more effectively.

From a streamlining standpoint, there are a couple of programs that I would point to. Federal Highway Administration administered the Every Day Counts program. They also had an enhanced environmental review program. Our State Route 91 project was in the environmental program, and it really made a difference. What it did was create a high level of attention at the Federal agency level to ensure that discussions were taking place, reviews were happening on a timely basis, and if we, as a project sponsor, ran into trouble, we had a resource to go to to help facilitate the problem. I think the Build America Bureau has the opportunity to really help us with additional streamlining.

Senator INHOFE. Do the other two agree essentially with her comments on that?

Ms. AUMENT. Of course.

Mr. COES. [Nodded affirmatively.]

Senator INHOFE. One of the things I can remember, and I go all the way back to prior to coming to the Senate, I was in the House committee, and people have forgotten one of the big problems we had with the Highway Trust Fund back then is we had too much surplus. Remember those days? You were probably too young to remember that, but you can remember reading about it.

So we acknowledge we know what has happened to that, and we know the problems that now exist and how important it is. The most popular project the Government does is transportation.

So, having said that, in one of our Committee hearings that we had, and it has already been covered a little bit by the Chairman, we had five witnesses, and these witnesses were from the contracting community. And talking about the 3P, they all agreed, four out of five agreed it was very important and a very important part of the project that comes up. But they all said, except it doesn't work as well in rural areas.

Now, we have talked about this a little bit. It happens that everyone on this side of the dais is from a rural State. So I would like to have comments from any of you who have not weighed in on the problem in using 3Ps in the rural area, and maybe a possible solution to weigh in now.

Ms. AUMENT. Senator, that is a great question as we look to how can we make dollars go further in all kinds of communities. Again, I want to reinforce that don't overlook large urban projects and P3s and their role in freeing up resources to help meet needs in rural communities.

I would also underscore that in States across the country, as rural communities look at networks and systems, instead of just individual projects. As a private investor, an individual project may not make sense. An individual big project might not be financially

viable. But by putting across a network, either a network across the community, across the State, it is something that could work for private investment.

So I would encourage those mayors and Governors and their teams to bring private investors in and really engage to get feedback on what networks or systems within their communities might indeed stack up as a financially viable P3 project.

Senator INHOFE. Yes.

Mr. COES. The only thing I would add to your comments is the fact that oftentimes smaller projects do not generate the revenue stream in order to support it. However, our experience is that if you actually tie those infrastructure projects to economic development, you are able to generate new revenues, maybe from the retail, maybe from commercial or residential, that can underwrite those infrastructure projects. And we find that a lot in a lot of rural towns and areas. So my recommendation would be to think about more innovative ways to pay for the infrastructure projects using real estate and other economic development means.

Senator INHOFE. Ms. Aument, when I saw your resume, your background and the fact that you work with a lot of other countries, my first thought was we keep trying to do a lot of the same things over again. Is there anything you can think of that has been used in some of these other countries that maybe we haven't properly explored?

Ms. AUMENT. Absolutely. You know, the U.S. Federal Government, and very much some of the policies advocated by this Committee, has played an increasing role, and very effective role, in the last 10 years in providing education to States and localities across the country in helping to provide resources that will enable these professionals to look at public-private partnerships, and we have seen real progress in that area. And State and cities across the country are taking that information and those best practices and putting them to work to move transportation projects forward.

Where I think the natural next step would be for the Federal Government to really enhance meaningful opportunities for private investment is to move from educator to incentivizing States and localities to look at these kinds of projects. And I think that is an important shift.

Australia has a concept that has worked very successfully in that country called asset recycling, where the Federal Government provided a 15 percent bonus, for lack of a better word, for States who, when they look around and they looked at their infrastructure, and they said what assets, be it electrical grid, ports, toll roads, what assets would have more value in the hands of the private sector. And the Federal Government would provide a 15 percent bonus or incentive for States to privatize those assets. And those funds, both through the privatization and through the bonus, were then redirected to help support greenfield projects and great projects like the Sydney Metro.

So that would be an incentive program I would encourage you to look at, or if not word for word that policy, at least that theme of moving from educator and facilitator to incentivizing.

Senator INHOFE. OK, my time has more than expired, but this is a very common thing to do at these meetings. If you would sup-

ply us with, or me, for the record, other ideas that you have. I have a feeling you could go on for quite a while on this subject. Would you do that for me?

Ms. AUMENT. Of course.

Senator INHOFE. Thank you.

Thank you, Mr. Chairman.

Senator BARRASSO. Thank you, Senator Inhofe.

Senator Carper.

Senator CARPER. Thanks, Mr. Chairman. This has been a good hearing, and I was mentioning, in a sidebar conversation with the Chairman, you are exceptionally good witnesses; very knowledgeable and very clear and concise in your responses. It doesn't always happen. Sometimes we are not very clear and concise in our questions either.

I know we keep coming back to the idea that TIFIA works in a lot of places; it doesn't always work in rural areas. A couple of you commented on that.

Ms. Mayer, do you have anything you want to add in terms of I think in your area of California you have—I used to live in California when I was in the Navy. But you have nine metropolitan areas; you have rural areas as well. Just mention one or two maybe additional features to the TIFIA program that might make it more attractive as a financing tool in rural areas. Anything come to mind?

Ms. MAYER. What comes to mind, although we haven't had the opportunity to use it yet, there is a provision that allows for master agreements in the TIFIA program, which is a master agreement with a sponsoring agency that would allow a bundle of projects, as was mentioned before, to come forward.

In the rural area we see this as a real potential opportunity to explore how we could use a master agreement process to bring forward a suite of projects, as opposed to just a single project. The challenge there is finding the revenue stream with which to pay back the loan. But we see exploration of the master agreement and the bundling concept perhaps as the best way of trying to approach the rural question that you pose.

Senator CARPER. Thank you. Without getting into the details, I would ask the other two witnesses to react to that, to what Ms. Mayer said.

Ms. AUMENT. About the TIFIA, I am really glad that you brought that up, because I mentioned earlier the case study of 395. Because of the uncertainty in the timing of the process, we chose not to use TIFIA. It would have made perfect sense had we had that agreement available when we did the 95 Express Lanes, to be able to move that forward.

Senator CARPER. Thank you.

Mr. Coes.

Mr. COES. The only thing I would add is, yes, the master credit agreement creates a great opportunity. In addition to that, I think there should be some encouragement for USDOT to take more of a portfolio approach in terms of the risk management of rural projects, or particularly smaller projects. I think that, in and of itself, would create more incentive for local communities to take advantage.

Senator CARPER. Did the three of you rehearse this before the hearing started? That was pretty good.

I think it was in 2012 when GAO found that projects which received credits through the TIFIA program tend to be large, high cost highway projects. More recently, I think last year, TIFIA report to Congress showed that about two-thirds of the TIFIA program's credit assistance goes to finance highway projects only.

In what ways can we further help multi-modal and intermodal projects to leverage TIFIA financing?

And I would direct that question to you, Mr. Coes.

Mr. COES. As I stated in my written testimony, I think what we are finding now, particularly working with transit oriented development and biped infrastructure through the TIFIA process, the transactional cost is a major hurdle.

The second piece, I think, is one that is more cultural in the bureaucracy of DOT. If you are a staffer who, for the past 15 years, have been working on financing highway projects, you get really good at it. I think when you begin to increase the eligibility, the staff may have little expertise in underwriting those projects. So I believe one of the things that we want to think about moving forward is either providing USDOT the capacity to gain greater expertise in these new projects that may be lacking on the staff or allowing them to acquire that outside.

Senator CARPER. Thank you.

Another question, if I could, for Ms. Mayer. Are you ready for another one?

Ms. MAYER. Yes.

Senator CARPER. All right. In Riverside County, I think you have already talked a little bit about SR 91 projects. Contract originally I think it included a non-compete clause, is that right, to protect the private partners' profits? Those clauses prevented, I am told, the public agency from building any new lanes, even when congestion increases to the point, I understand, of being dangerous. And ultimately I think it was the Orange County Transportation Authority had to buy out the private partner in order to expand the number of lanes.

Given this experience, what are the protections that might be helpful in safeguarding public interest?

Ms. MAYER. At the time that the State of California issued a concession to the private sector for the Orange County toll lanes, it was typical to include a non-compete clause which was very prohibitive. My understanding at this point, and perhaps my colleague could address this more directly, is that non-compete clauses are not typically found in those kinds of concessions anymore. Certainly, with the public ownership of the tolled express lanes, there are no non-compete clauses. We have to make sure we understand what happens if we add other projects, but those non-compete clauses are no longer typical, and it was absolutely damaging to our ability to move people through that corridor with that non-compete clause in place.

Senator CARPER. Just very, very briefly, yes or no, do you agree with that?

Ms. AUMENT. It is atypical to have anything. We certainly don't have anything in our network that would prohibit the State from

moving forward with other transportation projects. And I will underscore that they are in the driving seat when they have these transactions. They have a number of levers to pull, and if those competing facilities are a priority to ensure that they are left flexible, that is absolutely in the control of the State.

Senator CARPER. OK. Thank you.

I sometimes say I learn more from my mistakes than the things I do right, and maybe this was a good lesson for us to learn from a mistake.

If I could, back to Mr. Coes. You ready for another one, Mr. Coes? OK. Bring it on? Bring it on.

In 2012 MAP-21 began a new era of performance management, as you know. I like to say we can't manage what we can't measure, and that includes measuring performance to make sure that we maintain our existing roads before we start to build some new ones.

Would it be prudent for USDOT's Build America Bureau, which administers the TIFIA program, as you know, for them to consider performance metrics in the TIFIA program, such as having States fix it first, prior to expanding their systems?

Mr. COES. Overall, I think, interesting enough, this is an issue that our organization cares about very deeply. We do believe that we should be investing in our existing communities. Once we have done that, we should then think about greater capacity.

In terms of the Bureau, I would say this. Every project is different. However, we do believe that the Bureau should take a view that projects that are coming through the pipeline should have the ability to be sustainable over the long term, and that could be done in different ways: one, through the underwriting process, in terms of whether or not this project can financially support itself over the long term, as well as will there be long-term support by the community to invest in this project.

So those two items I think that would be one of the ways we can increase public performance measures through the TIFIA program particularly through the Bureau.

Senator CARPER. All right, thanks.

And maybe one for all three, then I am done.

The President's budget proposed to increase TIFIA's contract authorities we know to, I think, about \$1 billion per year. But just over a year ago, in the FAST Act, Congress reduced the program from \$1 billion a year to its current authorization of \$275 million because it was more money, apparently, than DOD could process and more than was needed. In your opinions, what level of capitalization would make sense and be useful?

Ms. Mayer.

Ms. MAYER. I think it is important to make sure that there is sufficient capital there. There may be times where \$1 billion might be too much, but project delivery is very cyclical, and I think predictability for project sponsors is important. So having an understanding that there is at least a base level authorized would be very, very important, so that we know the program will be there when we need it.

Senator CARPER. All right, thanks.

Ms. Aument.

Ms. AUMENT. Senator, TIFIA can only leverage tax dollars to deliver more if there are projects for TIFIA to support. So you can put all the money that you want into the TIFIA program, but if there are not projects, a pipeline of projects in cities and States across the country ready to receive that TIFIA and to be able to move forward to serve communities, then it won't do any good.

So I think I agree that sufficiently funding TIFIA is very important, but also looking, at the same time, at strategies to incentivize States to move projects forward, efforts to streamline the process to ensure projects can move forward in a quick fashion, those are the kinds of efforts that are necessary to build that pipeline and unlock a lot of the private capital that is waiting to invest. But it is the lack of projects that is the real obstacle for us.

Senator CARPER. All right.

Mr. Coes, just a quick word, please.

Mr. COES. I would like to agree with my colleagues. In addition to that, I think one of the lessons we have learned in other loan programs is that those programs have partnered with local banks on the ground who have been able to do transactions with loan guarantees to be the aggregator of these projects. So I think that is one strategy to think about how to increase the volume.

But I agree with the colleagues that you can increase money, but if there are no projects, it doesn't make any difference.

Senator CARPER. Good. Thanks.

Thank you. In the Olympics, Mr. Chairman, sometimes the figure skaters or other performers, at the end of their performance, the judges hold up a number from 1 to 10, and I can't speak for my other colleagues who have left, but I would say you got 9s and 10s from Delaware, and my guess is from other States, too. Very nicely done.

The other thing I would say, this is really important stuff, and we are struggling to find things to agree on to work on together. This is certainly a big one. And the idea of not just roads, highways, bridges, but I think a couple of you mentioned broadband, deployment of broadband, water sewer treatment, and that kind of thing. It all kind of works together to create that nurturing environment for job creation and job preservation, which we know we need a lot more of.

So thank you for adding a lot to the conversation. And I expect we will be back to you to ask some more questions offline. Thank you so much.

Thanks, Mr. Chairman. This was excellent.

Senator BARRASSO. Well, thank you very much, Senator Carper. I agree we have had an outstanding panel. They have done a great job in answering our questions.

As you know, members may submit written questions to you over the next couple weeks, so we would ask that you respond quickly, if you could. I want to thank each of you for being here, for your time, for your testimony, for sharing your expertise and your knowledge.

With that, the hearing is adjourned.

[Whereupon, at 11:27 a.m. the hearing was adjourned.]

[Additional material submitted for the record follows:]

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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
 WASHINGTON, DC 20510-6175

March 10, 2017

The Honorable Michael Enzi, Chairman
 The Honorable Bernard Sanders, Ranking Member
 Committee on the Budget
 United States Senate
 Washington, DC 20510

Dear Chairman Enzi and Ranking Member Sanders:

In response to your letter of February 7, 2017, we present the following views and estimates for certain programs under the jurisdiction of the Committee on Environment and Public Works.

Reserve Fund

The Committee requests a reserve fund to address any budgetary impacts from Committee legislative initiatives.

Current Legislative Initiatives

Infrastructure Bill

The Committee intends to move comprehensive legislation to authorize and implement important infrastructure programs. We intend to include transportation infrastructure as well as Environmental Protection Agency drinking water and wastewater infrastructure assistance programs and Army Corps of Engineers water resources infrastructure in this larger package.

Endangered Species Act Bill

The Committee is conducting oversight of the Endangered Species Act (ESA), which will serve as a basis for legislation to improve the act.

Nuclear Energy Innovation and Modernization Act

The Committee intends to move legislation to establish new transparency and accountability measures over the Nuclear Regulatory Commission's budget and fee programs, and develop the NRC regulatory infrastructure necessary to enable the licensing of advanced nuclear reactors.

Diesel Emissions Act Reauthorization

The Committee intends to move legislation to reauthorize the Diesel Emissions Reduction Act program.

Cost Savings

The Majority supports implementation of federal environmental laws through the cooperative federalism structure of these statutes and intends to conduct oversight to identify efficiencies and cost savings that will result from such an approach. The Majority also intends to look for opportunities to reduce or eliminate programs under the jurisdiction of the Committee that are redundant, ineffective, or inefficient.

Agency Programs*Environmental Protection Agency (EPA)*

The Committee supports EPA efforts to protect public health and the environment, increase job opportunities, and promote community revitalization. The Committee supports adequate funding for EPA and state implementation of federal environmental laws. The Committee intends to conduct oversight to identify cost savings through efficiencies in EPA programs.

Water Infrastructure

The Committee supports programs for maintaining and enhancing drinking water and wastewater infrastructure and urges that the budget resolution support robust funding for these important and successful programs. The national need for investment in water and wastewater infrastructure through the Clean Water State Revolving Funds (CWSRFs) and Drinking Water State Revolving Funds (DWSRFs), which are managed by EPA, continues to far outpace the amount of funding that is available from all levels of government.

The Congressional Budget Office (CBO) baseline for the Water Infrastructure Finance and Innovation Act of 2014 (WIFIA) is \$20 million. The WIFIA program is a powerful tool for addressing water infrastructure needs. The Committee supports EPA WIFIA funding at the authorized level for FY 2018: \$45 million. However, because only 15 percent of WIFIA funds support small projects found in rural areas, WIFIA funding cannot come at the expense of funding for state revolving loan funds.

Other EPA Water Program Funding

The Committee strongly supports funding out of the State and Tribal Assistance Grant Account for state nonpoint source reduction programs under Section 319 of the Clean Water Act and state water pollution control programs under Section 106 of the Clean Water Act.

Toxic Substances Control

The Committee supports implementation of the Frank R. Lautenberg Chemical Safety for the 21st Century Act (Public Law 114-182), which was enacted on June 22, 2016. While the legislation imposes additional administrative costs on EPA, it authorizes EPA to collect fees from chemical manufacturers and processors to offset these costs. We support funding to implement the legislation, which CBO estimates to require an increase of \$17 million in FY 2018 above baseline funding, and appropriation of all fees that are collected.

Cleaning up Superfund Toxic Waste Sites

For FY 2018, the CBO baseline level of funding for the Superfund program is \$1.122 billion. This funding supports EPA personnel who oversee private party cleanups, as well as removal and remedial actions that EPA itself carries out. The Committee is interested in actions the agency intends to take to increase the annual pace of cleanups with baseline funding.

Cleaning up Brownfields

In 2002, Congress enacted the nation's brownfields cleanup and redevelopment program, authorizing \$200 million annually for site assessment and cleanup projects, of which \$50 million annually is authorized for certain state programs. Brownfields are areas where contamination issues inhibit redevelopment efforts. The federal brownfields program is one of EPA's most popular and successful programs. The CBO baseline for FY 2018 is \$82 million for the State and Tribal Assistance Grants that fund brownfields projects. The baseline level of additional funding that is provided as part of EPA's categorical grants for state programs is approximately \$50 million. The Committee strongly supports the brownfields program.

Preventing and Cleaning Up Leaking Underground Storage Tanks

Leaking underground storage tanks are a threat to our nation's groundwater quality. This program is funded by the Leaking Underground Storage Tank fee of \$0.001 per gallon that is part of the federal gas tax. These receipts are placed into the Leaking Underground Storage Tank Trust Fund, which is anticipated to have a balance of \$505 million at the beginning of FY 2018. Fees should be used for the purpose for which they are collected. The Committee supports the underground storage tank program and notes the importance of its state and tribal technical assistance and grants to protect underground sources of drinking water.

Science and Technology

The Committee supports EPA's Science and Technology programs. The programs as well as the associated laboratories should continue to be regularly reviewed and evaluated. The Committee believes that the federal government has a role to play in research and development efforts for a new generation of cost effective energy and environment technologies that solve our nation's greatest environmental challenges. These efforts should be based on sound science that is objective and transparent.

Air and Climate Programs

The Majority has consistently opposed requests from the previous administration to increase funding levels for climate change programs. During the FY 2017 process, the previous administration requested \$235 million to pursue greenhouse gas reductions and \$1.3 billion for the Global Climate Change Initiative, including \$750 million for the Green Climate Fund, which Congress did not authorize or support. The previous administration also requested \$50.5 million for implementation of the Clean Power Plan, which is being challenged in federal court. The Supreme Court has issued an unprecedented stay against the Clean Power Plan, halting its implementation pending further federal judicial proceedings. The Majority believes that the FY 2018 budget should significantly reduce funding for these and other climate programs established by the previous administration, and reallocate funding to other priorities that directly improve the environment and public health.

The Majority believes EPA should refocus resources on implementing the primary goals of the Clean Air Act. Those goals are achieving healthier air, addressing radiation issues, and enhancing science and research in an open and transparent way. The EPA should also refocus resources to better assist states and other regulated entities with compliance activities in order to improve application of key air quality programs.

The Minority believes climate change poses a significant risk to public health, the nation's economy and quality of life, and feels that significantly reducing carbon pollution is imperative. Accordingly, the Minority supports adequate funding for programs that cut carbon and other greenhouse gas pollution from stationary and mobile sources. This includes funding for voluntary programs at EPA, programs through the agency's international office, and state assistance programs.

The Majority supports EPA's efforts to streamline consideration of air permits and implementation plans and to develop policies that create consistent application of agency enforcement across all regions. The Committee supports EPA's efforts to implement the Government Accountability Office's (GAO) recommendations focused on improving the agency's performance and the efficiency and effectiveness of its programs consistent with the GAO's June 14, 2016 study entitled, "Status of GAO Recommendations to EPA." More generally, the Committee believes that EPA should make every effort to carefully analyze and account for the impacts that its regulatory decisions have on health and economic productivity at the local, state, regional, and national levels.

The Committee supports funding for the Diesel Emissions Reduction Act (DERA), established pursuant to the 2005 Energy Policy Act. DERA is a voluntary program that incentivizes equipment and vehicle owners to retrofit existing heavy-duty diesel vehicles and engines with new technology, or replace engines and equipment through the disbursement of federal and state grants and rebates. Diesel engine retrofits are one of the most cost effective ways to obtain reductions in air pollution and to reduce the risk of premature death from particulate matter. The EPA reported in 2016 that funding requests for the DERA rebate program exceeded available funds by as much as 35 to 1 and requests for the DERA grant program exceeded available funds by 7 to 1.

The Committee supports a strong federal commitment to state and local air quality grant programs as a mechanism to assist state and local governments in implementing and complying with federal environmental requirements.

Department of Transportation, Federal Highways Administration

On December 4, 2015, the Fixing America's Surface Transportation Act (FAST Act) was signed into law. For the first time since 2005, Congress enacted long-term, five-year legislation to improve the nation's surface transportation infrastructure, including roads, bridges, transit systems, and rail transportation networks. This Act reforms and strengthens transportation programs, refocuses national priorities, ensures long-term certainty, provides more flexibility for states and local governments, streamlines project approval processes, and maintains a strong commitment to safety.

The transportation needs of the United States demand a funding level sufficient to sustain and strengthen the nation's surface transportation network, which is a backbone of the economy. The continuation of mandatory contract authority to fund highway programs is essential to provide predictable long-term funding and to give states the ability to enter into commitments that would obligate the federal government.

A strong federal transportation program will improve America's quality of life and will help meet the needs of the nation's growing economy. Americans and businesses benefit every day from high-quality transportation infrastructure through shortened travel times, increased productivity, and improved safety.

Failing to provide a safe, reliable, efficient transportation system creates disruptions that waste money, time, and fuel, and undermines the global competitiveness of America's businesses. According to the 2015 Urban Mobility Report issued by the Texas Transportation Institute, traffic congestion continues to worsen in American cities of all sizes, creating a \$160 billion annual drain on the U.S. economy in the form of 6.9 billion lost hours and 3.1 billion gallons of wasted fuel. This represents an average financial burden of \$960 per commuter, every year.

According to the U.S. Department of Transportation's report titled, "2015 Status of the Nation's Highways, Bridges, and Transit: Conditions and Performance," only 36 percent of highway miles traveled are on roads that are in "good" condition and nearly 20 percent are on roads that are in "poor" condition. In addition, there are almost 58,800 bridges nationwide that are structurally deficient and in need of repair or replacement.

The FAST Act will help ensure that states have the tools and the certainty to make new investments, fight growing congestion, and maintain the mobility of goods and services necessary to keep the economy growing. The FAST Act will help pave the way for the next 50 years of American excellence in infrastructure and make America the best place to do business.

The Committee supports implementation of the FAST Act and we support funding at the authorized levels. The two Continuing Resolutions that provide appropriations for the period of

October 1, 2016 through April 28, 2017, provide for a total of \$24.3 billion in obligation limitation for the Federal Highway Administration (FHWA). This is nearly \$600 million lower than the level at which FHWA would be operating for the same time-period under the FAST Act, which passed in 2015 with strong bipartisan support. The Committee supports funding levels authorized by the FAST Act, which provided for \$43.266 billion in obligation limitation for FHWA in FY 2017 and \$44.234 billion in FY 2018. The Continuing Resolution also funded the Nationally Significant Freight and Highway Projects program, referred to as FASTLANE grants, at a slightly lower level than authorized. The Committee supports funding for this program at the authorized level.

The Minority notes that the Federal-Aid Highway Program has historically been funded primarily through revenues from the federal gas and diesel tax, which was last raised over twenty years ago, as well as revenue from taxes on truck sales, use, and tires. Revenue from these federal taxes was insufficient to meet the baseline funding levels provided in MAP-21 or the FAST Act, and the shortfall continues to grow. The FAST Act provided funding through 2020 by transferring \$70 billion from general revenues. According to a March 2016 estimate from the Congressional Budget Office, in 2020 the Highway Trust Fund will need \$107 billion in additional funding in order to maintain current spending plus inflation from 2021 through 2026.

U.S. Army Corps of Engineers, Civil Works

The Committee supports more robust funding for the Army Corps of Engineers at a level consistent with the Corps' capability. Investment in the civil works program of the Army Corps of Engineers offers many benefits. Congress recognized these benefits when it authorized construction of many important water resources projects in the Water Resources Reform and Development Act (WRRDA) of 2014 (Public Law 113-449) and in the Water Infrastructure Improvements for the Nation Act of 2016 (WIIN) (Public Law 114-322). The nation's network of coastal ports and inland navigation systems is essential for the movement of raw and finished goods throughout the U.S. and overseas. Investing in these systems is necessary to ensure U.S. economic competitiveness in the global economy. The value of flood, hurricane and storm damage reduction measures and the cost of inadequately investing in this infrastructure has been demonstrated repeatedly by multiple natural disasters in recent years. Benefits also accrue from undertaking environmental restoration projects around the country, including in the Everglades, Upper Mississippi River, Missouri River, Coastal Louisiana, San Francisco Bay and countless other rivers and coasts.

The FY 2018 CBO baseline for appropriations out of the Harbor Maintenance Trust Fund (HMTF) is \$1.278 billion, even though receipts from user fees and interest during FY 2017 are estimated to be \$1.802 billion. In WRRDA 2014, Congress established a target level of appropriations from the HMTF for FY 2018 of 74 percent of the harbor maintenance taxes received in FY 2017, which would be \$1.333 billion. The Committee recommends that the budget resolution include, within the context of overall increases in funding for the civil works program, increased expenditures from the HMTF as specified in WRRDA 2014.

Receipts into the Inland Waterways Trust Fund in FY 2017 are estimated to be \$106 million. These receipts are collected from a tax on diesel fuel used on 12,000 miles of inland waterways,

which Congress increased in December 2014 to address the backlog of inland waterway projects. The Committee supports full use of Inland Waterways Trust Fund receipts for the purpose for which the tax is collected, *i.e.*, construction and major rehabilitation of locks and dams on the inland waterways.

In Section 3016 of WRRDA 2014, Congress amended the National Levee Safety Program to require a one-time review of all levees in the inventory, to establish levee safety guidelines, to establish a levee hazard potential classification system, and to authorize technical assistance and materials to states, communities, and levee owners. In addition, the 2014 amendments authorized \$30 million a year for the Corps to provide levee rehabilitation assistance to states, Indian tribes, and local governments. This program has not yet received funding so it is not part of the CBO baseline. The Committee supports implementation at the authorized levels.

WIFIA, discussed above, also authorized a secured loan program for Corps of Engineers water resources infrastructure. Secured loans are a very cost effective way to provide federal assistance for this critical infrastructure. The Corps WIFIA program is not part of the CBO baseline. The Committee supports funding at the authorized level for FY 2018 of \$45 million.

The WIIN Act also authorized the Corps of Engineers to employ innovative approaches to address flooding, as well as maintaining its reservoirs. The Committee supports adequate funding to implement these authorities.

Economic Development Administration (EDA)

Funding at EDA supports a broad range of programs, including a public works program to empower distressed communities to revitalize, expand, and upgrade their infrastructure. EDA also provides technical assistance through Economic Adjustment Assistance, which enables regions to respond to sudden or long-term economic changes, natural disasters, or other major disruptions to their economy.

The Committee supports funding EDA at an appropriate level to allow it to continue creating jobs and to increase economic vitality in local communities.

Department of the Interior, U.S. Fish and Wildlife Service

The Committee supports the mission of the U.S. Fish and Wildlife Service (FWS) to work with others to conserve, protect and enhance fish, wildlife, plants and their habitats for the continuing benefit of the American people. We support FWS functions such as the agency's management of the National Wildlife Refuge System, fisheries programs, and endangered species programs. The Committee supports a robust level of funding in the FY 2018 budget for these important activities.

The Majority believes that the FWS should focus more broadly on the three tenets of the Endangered Species Act: listing, conservation, and recovery. We are concerned that the FWS currently devotes too few resources to consultation with states and other stakeholders, and to full recovery of endangered and threatened species and their subsequent downgrading and delisting.

We are concerned that the FWS currently devotes too many resources to listing actions driven by litigation rather than science-based determinations.

The Minority believes that changes in land use, industrial activities, and other activities accelerate the rate at which species are threatened and become extinct. The Minority requests that FWS funding levels be sufficient to enhance the agency's ability to protect and recover listed species and help states ensure that imperiled species are managed proactively to avoid the need for ESA listing.

General Services Administration, Public Building Services

The Committee is concerned by the General Services Administration's (GSA) reliance on long-term leases. Nonetheless, we recognize the GSA's efforts to be proactive in its leasing agenda by taking measures such as negotiating for more desirable terms from property owners, consolidating space to reduce rentable square feet, increasing housing efficiencies, and in some cases relocating into government-owned properties.

The Committee intends to conduct oversight to identify opportunities for efficiencies and cost reductions at GSA, including reducing the federal real estate footprint.

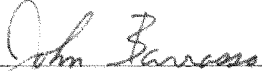
Nuclear Regulatory Commission


The Committee believes nuclear energy makes vital contributions to our nation's energy mix. Given the economic challenges nuclear plants and uranium producers are facing, we are increasing our scrutiny of the Nuclear Regulatory Commission's (NRC) resources. In particular, the NRC has grown substantially over the last decade to accommodate projected development of new plants. This industry growth did not materialize and has in fact been replaced by a decrease in the size of our nuclear industry as evidenced by premature plant shutdowns. While the Majority appreciates the NRC's efforts to adjust the size of the agency, the Majority believes additional reductions are needed to align the NRC's resources with its reduced workload.

The Majority notes that under the Nuclear Waste Policy Act, the NRC has a mandate to review and issue a decision regarding the Department of Energy's construction authorization application to build a repository at Yucca Mountain in Nevada. The mandate was upheld by the U.S. Court of Appeals for the District of Columbia Circuit which issued a writ of mandamus compelling the NRC to resume its review. The Majority notes that the Department of Energy has identified the lack of a disposal path for high-level radioactive waste as a reason for increased federal environmental liabilities.

We appreciate the opportunity to comment on the programs within the jurisdiction of the Committee on Environment and Public Works. We look forward to working with you as you prepare the Concurrent Resolution on the Budget for FY 2018.

Sincerely,


John Barrasso, M.D.
Chairman


Tom Carper
Ranking Member

AMERICAN ASSOCIATION
OF STATE HIGHWAY AND
TRANSPORTATION OFFICIALS

AASHTO

STATEMENT OF
**The American Association of State Highway
and Transportation Officials**

REGARDING
**The Use of TIFIA and Innovative Financing in
Improving Infrastructure to Enhance Safety, Mobility,
and Economic Opportunity**

BEFORE THE
**Committee on Environment and Public Works
of the United States Senate**

ON
July 12, 2017

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INTRODUCTION

The American Association of State Highway and Transportation Officials (AASHTO) is pleased to provide comments as part of the Senate Environment and Public Works Committee's hearing entitled "The Use of TIFIA and innovative Financing in Improving Infrastructure to Enhance Safety, Mobility and Economic Opportunity." Representing all 50 States, the District of Columbia, and Puerto Rico, AASHTO serves as a liaison between State departments of transportation (state DOTs) and the Federal government. AASHTO again thanks the Committee and Congress for passage of the Fixing America's Surface Transportation Act (FAST Act) in 2015.

AASHTO welcomes the opportunity to comment and provide recommendations for the Committee to consider related to the Transportation Infrastructure Finance and Innovation Act (TIFIA) program and the changes made to it by the FAST Act. In addition to the statutory changes made by Congress, AASHTO welcomes the opportunity to comment on the US Department of Transportation's (USDOT) implementation of TIFIA, and the USDOT's guidance for awarding TIFIA credit assistance. AASHTO has been a strong supporter of the TIFIA program since its inception and continues to evaluate program policies and procedures on behalf of its members and other stakeholders. AASHTO provides these comments and recommendations from the perspective of improving access to TIFIA for all eligible project sponsors and maximizing the public benefit derived from program assistance.

NATIONAL SURFACE TRANSPORTATION AND INNOVATIVE FINANCE BUREAU

The FAST Act mandated the creation of a National Surface Transportation and Innovative Finance Bureau (Bureau), branded as Build America Bureau by the USDOT. The Bureau, since its establishment, has been responsible for administering the application processes of USDOT credit programs including TIFIA and the Railroad Rehabilitation and Improvement Financing (RRIF) program. We recommend that the USDOT continue outreach activities to state DOTs, other project sponsors, and transportation stakeholders in order to carefully consider the many policy and technical aspects of enhancing the Bureau's impact. We believe the Bureau, as it continues to grow and evolve, should consolidate key USDOT functions and improve the effectiveness of the designated programs, including TIFIA—as intended by Congress. AASHTO recommends that the USDOT provide regular updates to this Committee and to Congress on the plans and activities of the Bureau and provide opportunities for stakeholders to comment on specific alternatives and issues that arise in that process.

PROGRAM FUNDING

The FAST Act permits the use of certain Federal-aid funds to cover the subsidy and administrative costs of credit assistance (specifically Surface Transportation Block Grant Program funds, National Highway Performance Program funds and Nationally Significant Freight and Highway Projects Program funds).

AASHTO appreciates that the FAST Act reduced the annual funding authorizations for the TIFIA program from the prior levels. But the \$1.435 billion authorized during fiscal years 2016-2020 could fund approximately \$20 billion of TIFIA loans assuming an average subsidy rate of seven percent, which reflects the 14 to 1 leverage ratio of credit assistance to TIFIA funding cited in a recent USDOT Notice of Funding Availability (NOFA). That amount of credit assistance is almost as much as the \$22.2 billion of total credit provided in the first 17 years of program history (fiscal years 1999-2015). Thus the FAST Act's TIFIA authorization levels will support dramatic program growth (over historical levels) during the next five years.

To further support the TIFIA program, Congress made two other important changes to TIFIA funding in the FAST Act. It eliminated the provision requiring an annual redistribution of excess (a percentage of unobligated and uncommitted) funding and authorized the use of certain Federal-aid funds to cover the subsidy and administrative costs of credit assistance, as stated in the NOFA.

It is our understanding that because Congress enabled the USDOT to retain its significant accumulated balance of excess budget authority by eliminating the annual redistribution, the ability to use certain Federal-aid funds to pay for TIFIA loans is intended to be a “relief valve” to enable project sponsors to pursue TIFIA loans in future years if the TIFIA subsidy funding (including the accumulated balance) proves to be insufficient to address program demand prior to the next reauthorization.

While the FAST Act included modest funding increases for Federal-aid highway programs, infrastructure needs still far outpace resources available to state DOTs. AASHTO believes that encouraging (or requiring) state DOTs to utilize their federal-aid funds to pay for TIFIA loans while ample TIFIA subsidy funding remains available is neither efficient nor equitable. That would result in states seeking TIFIA loans having to reallocate resources from their regular program accounts to the state DOT’s TIFIA account. It also would have the effect of reallocating TIFIA program funding from those state-sponsored projects to other projects, effectively cross-subsidizing other TIFIA projects with the states’ federal-aid funding.

AASHTO believes that the decision to utilize Federal-aid funding in lieu of or in conjunction with TIFIA subsidy funding to pay for credit assistance should be a decision of the project sponsor. Many state and local sponsors of TIFIA-assisted projects provide significant public subsidies to help finance their projects. It is possible that some might consider utilizing federal-aid funding to help pay for loan subsidy costs as part of their public subsidies. We agree that the USDOT and project sponsors should evaluate such possibilities. But project sponsors should not be pressured to pay for TIFIA loans when TIFIA funding provided by Congress for that specific purpose is available. In the event of a TIFIA program funding shortfall in a future year, a project sponsor with access to federal-aid funding authorized to pay for credit assistance can decide whether to use its funding for that purpose or wait for additional subsidy funding to be provided by Congress (or decide to finance its project without TIFIA credit assistance).

ELIGIBLE PROJECTS

AASHTO supports the FAST Act modifications intended to improve access to TIFIA assistance. Notable examples of these include: accommodations for rural infrastructure projects, such as a lower minimum eligible cost threshold and a reduced interest rate; and codification of the practice of allowing availability payments made by a state pursuant to a public-private partnership (P3) concession to be eligible for Federal-aid reimbursement. In addition, AASHTO recommends the USDOT to increase TIFIA project cost share to up to 49 percent.

Part of the FAST Act’s enhanced focus on rural projects includes the ability to use a TIFIA loan to capitalize a rural projects fund within a State Infrastructure Bank (SIB). The SIB would be responsible for navigating the TIFIA application process, including deciding how to secure its TIFIA capitalization loan in a manner that satisfies the USDOT’s creditworthiness standards. Upon approval and receipt of the loan commitment from the USDOT, the SIB would be responsible for making loans to rural projects eligible for SIB assistance under 23 U.S.C. 610. We wish to emphasize that in addition to lower cost thresholds and interest rates, the rural project provisions of TIFIA (as modified by the FAST Act) also are intended to improve access by streamlining the application process for such projects—to the extent they satisfy criteria established by the FAST Act. We believe that many rural projects (including rural projects

funds) will satisfy the criteria and should be accommodated by the streamlined application process the USDOT is required to develop under the FAST Act. Another significant eligibility provision of the FAST Act relates to transit-oriented development (TOD) projects. While not in the direct jurisdiction of this Committee, we would like to raise an issue that may impact the overall TIFIA program.

The new TOD component of the definition of “Project” in the TIFIA statute appears to be a significant expansion of program eligibility. While the definition begins with “public infrastructure,” it includes “capital project described in 49 U.S.C. 5302(3)(G)(v), and related infrastructure.” We note that the definition of a capital project in section 5302(3)(G) includes “a joint development improvement that enhances economic development or incorporates private investment, such as commercial and residential development” and that it may include, among other things, “construction of space for commercial uses.” Furthermore, the Federal Transit Administration (FTA), in its “Notice of FTA Transit Program Changes, Authorized Funding Levels and Implementation of Federal Public Transportation Law as Amended by the (FAST) Act and FTA Fiscal Year 2016 Apportionments, Allocations, Program Information and Interim Guidance,” published in the Federal Register on February 16, 2016 (Vol. 81, No. 30, Part II), states under the section describing amendments to the definition of a “Capital Project” that:

The construction of space for commercial uses, including the outfitting of commercial space is now an eligible expense as a part of a joint development project. Language was removed stating that construction of space for commercial uses does not include outfitting of commercial space (other than intercity bus station or terminal) or a part of a public facility not related to public transportation.

Since TIFIA eligibility generally extends to capital projects as defined in section 5302 and specifically includes joint development improvements that may include construction of space for commercial uses, we therefore conclude that “public infrastructure” for purposes of satisfying the definition of an eligible TIFIA project now accommodates both the construction and the outfitting of commercial space as long as such commercial space is related physically or functionally to public transportation and meets the other requirements of section 5302. We believe this may have major implications for project sponsors seeking to finance TOD projects involving transit facilities, rail stations, bus stations and intermodal facilities. Congress may wish to revisit this issue and clarify the extent of this significant TOD project eligibility as provided by the FAST Act.

Finally, under the Moving Ahead for Progress in the 21st Century (MAP-21) Act, Congress explicitly increased the allowable project costs that could be covered under TIFIA assistance to 49 percent. However, as a matter of policy, the USDOT has capped TIFIA project cost share at 33 percent. AASHTO recommends increasing TIFIA cost share to the statutory maximum especially given the aforementioned balance in TIFIA subsidy funding that currently exists.

APPLICATION PROCESS

As we previously noted, the FAST Act requires the USDOT Secretary to “make available an expedited application process or processes available at the request of entities seeking secured loans under the TIFIA program that use a set or sets of conventional terms” within 180 days of the date of enactment. AASHTO supports this requirement, as many sponsors—especially those advancing smaller projects—have commented on the often lengthy and uncertain process for obtaining credit assistance from the USDOT. We agree with the USDOT’s approach for satisfying this requirement by refining the existing TIFIA term sheet and the two loan agreement templates. We emphasize that many rural projects (including SIB rural projects funds) should qualify for a streamlined process because of their smaller size (by definition not more than \$100 million) and the nature of their pledged security (frequently tax-backed or other sources

Statement for the Record from the
American Association of State Highway and Transportation Officials (AASHTO)

besides project-generated revenues). AASHTO encourages the USDOT to develop a simpler, faster and more reliable application process for all project sponsors but especially for the smaller projects with simpler terms. This may be an area that requires additional Congressional action in subsequent legislation.

Finally, we note that it has been 16 years since the TIFIA regulations have been updated. The only two TIFIA rules were promulgated in 1999 and 2000 – both addressing the initial statutory language enacted by the Transportation Equity Act for the 21st Century (TEA-21) in 1998. Both the Moving Ahead for Progress in the 21st Century Act (MAP-21) in 2012 and the FAST Act in 2015 made significant changes to the TIFIA program affecting project eligibility, credit standards, selection criteria, the application process and program funding. While the TIFIA Program Guide is a valuable tool that should be updated regularly, AASHTO believes that the USDOT needs to update the TIFIA regulations through the proper public notice and comment rulemaking procedure. The TIFIA program is a major tool for federal assistance and should not be managed primarily by program guides and unwritten policies. Especially as TIFIA and other major program functions get absorbed into or managed by the new Bureau, the USDOT should provide ample notice, invite public comment, and set forth clearly how the Bureau will coordinate with other USDOT agencies and offices and manage the important responsibilities assigned to it by Congress through the FAST Act. This is an area that will require oversight from this Committee and the House Transportation and Infrastructure Committee.

CONCLUSION

Thank you again for the opportunity to provide comments and recommendations related to the TIFIA program. We at AASHTO stand ready to assist you as you exercise oversight of this important financing program and look to reauthorize it in 2020.