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THE ADMINISTRATION'S FRAMEWORK FOR REBUILDING INFRASTRUCTURE IN AMERICA

HEARING

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

MARCH 1, 2018

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COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ONE HUNDRED FIFTEENTH CONGRESS
SECOND SESSION

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C O N T E N T S

THE ADMINISTRATION'S FRAMEWORK FOR REBUILDING INFRASTRUCTURE IN AMERICA

THURSDAY, MARCH 1, 2018

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

The Committee met, pursuant to notice, at 10:06 a.m. in room 406, Dirksen Senate Building, Hon. John Barrasso (Chairman of the Committee) presiding.

Present: Senators Barrasso, Inhofe, Capito, Boozman, Wicker, Fischer, Moran, Ernst, Sullivan, Carper, Cardin, Whitehouse, Merkley, Gillibrand, Booker, Markey, Duckworth, and Van Hollen.

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

Senator BARRASSO. Good morning. Today, we will discuss the need to modernize our Nation's infrastructure and President Trump's plan for rebuilding infrastructure in America.

This Committee has historically taken the bipartisan lead on infrastructure issues in the Senate. I am very pleased that Secretary Chao and Assistant Secretary James have come to our Committee first to discuss the infrastructure principles shared by President Trump on February 12.

Our infrastructure drives the health, well-being, economy, and prosperity of the Nation. We depend upon it to move people and goods, to get to our jobs, to protect our homes from floods and disasters, and to provide our families with clean water.

For too long, we have not prioritized the needs of these infrastructure systems. Funding has not kept pace with our infrastructure; needs and burdensome Federal regulations have slowed efforts to spend the money efficiently.

The time has come to make a significant investment in our roads, bridges, ports, and water systems. The Administration's plan proposes to spend hundreds of billions of dollars of Federal money to generate well over $1 trillion of infrastructure impact.

Part of this can be accomplished by cutting Washington's red tape. President Trump's plan prioritizes streamlining. This will allow needed projects to start quicker and finish faster for lower costs.

As States, counties, and towns wait to obtain permits from Washington, costs for projects rise, and time is wasted. It should not take a decade to permit a project that takes only months to build. We need to speed up project delivery.

The President's plan calls for a 2-year or less limit for Federal approvals on projects. That is a common sense approach. Only in Washington is 2 years considered a quick turnaround. We need regulatory streamlining so we can build these projects faster, smarter, better, and cheaper. The President's plan also makes the infrastructure needs of rural America a priority.

A significant portion of the Federal money proposed in the President's plan is designated specifically for rural States. Rural communities need to have an equal seat at the table as we address infrastructure needs. What works in Baltimore or Chicago may not work for smaller communities like Cody, Casper, or Cheyenne, Wyoming. We need an infrastructure plan that includes projects for both.

Better roads and water systems across America help us all. Everyone benefits from safer highways and dams in rural communities. Any plan should have significant and sustained funding levels for rural areas.

On the Environment and Public Works Committee, we are making good bipartisan progress on legislation to address America's water infrastructure. We are working side by side on water infrastructure legislation that we plan to pass later this year. We need to expand that bipartisan cooperation to roads and bridges as well.

America prides itself on its ingenuity and commitment to provide infrastructure that meets the needs of its people. I believe we can work in a bipartisan way on legislation that will make our infrastructure even better. That process begins today by hearing more about the President's plan.

I would like to thank both Secretary Chao and Assistant Secretary James for joining us today and for the insights they will provide for the Committee.

I would now like to recognize our Ranking Member, Senator Carper, for his remarks.

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

Senator CARPER. Thanks, Mr. Chairman.

Good morning. It is great to see our Secretary, and I want to be among the first to congratulate our new Assistant Secretary with the Army. Thank you for your willingness to serve, and we look forward to working with you. It has been a joy to work with both of you through the confirmation process.

Welcome, and we are glad to see you.

I am disappointed to learn that Administrator Pruitt is unable to testify before us today despite EPA's important role in the improvement and development of drinking water and wastewater infrastructure. Having said that, we are delighted that the two of you are here. I thank you for joining us.

As we consider a potential infrastructure bill, it is helpful to hear from you, and we were glad to finally receive the Administration's proposal last month. My statement says it will largely be up to the Congress. I will be honest with you. It is up to you—the two of you—as well. It is up to the Administration. It is up to a lot of people. This is a shared responsibility.

A big part of it is on us. We have a pretty good working relationship here. Hopefully, that will help us along the way.

The Chairman and I agree on a lot of things. We disagree on one or two. However, we agreed on the need for the Federal Government to be a good partner to States when it comes to investing in our infrastructure.

As a former Governor and State Treasurer, I know it is hard to ask a State to go from an 80-20 funding formula, for example, for roads—80 percent Federal to 20 percent States; it is hard to flip that and go from 80-20, where the Federal Government plays the major role, to 20-80 where the States are expected to put up the 80 percent. It is hard to make up that slack.

Some of us in the Senate met with a bunch of Governors on Capitol Hill this week. We had a good conversation about this. They are concerned, and you might imagine why. They are not anxious to accept that view. I think folks in Wyoming and people—Governors and so forth—would all be reluctant to take that deal.

It is one of a number of places where I think the math of the Administration's plan does not add up. Last week some economists up the road from us in Philadelphia at the University of Pennsylvania modeled the Administration's proposal, and have been modeling it for a while.

They found out that at most it would spur an additional $30 billion in State, local, and private infrastructure spending. Think about that—an additional $30 billion in infrastructure spending. That is a far cry from what the Administration is promising.

On the campaign trail, I think the President basically is saying we are going to put $1 trillion into infrastructure. The folks at the University of Pennsylvania at the Wharton School of Business are saying, I don't think so.

I am also concerned about the Administration's proposal to give projects incentive awards based almost entirely on the percentage of non-Federal money they would raise, regardless of project quality and benefits. I think we might want to rethink that. I think there is something to be said for more money for the leveraging of non-Federal money with the Federal money but project quality has to be among the considerations.

Does this make it safer? Does this reduce pollution? Does this make easier for us to get from place to place and that kind of thing? Particularly, I am disappointed though by the degree to which the Administration is focusing on sweeping rollbacks to our Nation's bedrock environmental protections.

I am committed to delivering projects quickly. I know you are, too, but safely guarding environmental projections does not always achieve time savings. In fact, I think it rarely does. Doing so would potentially put our communities at risk and can deprive the residents who would be most affected by these projects from making their voices heard.

There are a number of ways to speed up projects. Putting on my old Governor hat, we were able to do those without environmental harm, including many this Committee helped enact into law and that this Administration is choosing, at least thus far, not to implement. For example, we could ensure that permitting agencies have enough funding to quickly complete reviews. We could enhance coordination tools and implement new authorities in 2020 that Congress already passed.

Unfortunately, the Administration has done the opposite by proposing to cut permitting agencies' budgets and slashing funding for the Department of Transportation's Infrastructure Permitting Improvement Center by two-thirds. That does not really speed us up. That does not give us the expedited process we all want.

Congress—thanks to the efforts of this Committee—created the Federal Permitting Improvement Steering Council in 2015 to coordinate and expedite permitting. That was in 2015. I am told that no executive director of the Federal Permitting Improvement Steering Council has been appointed. It has been 3 years.

Major rulemakings at DOT would implement streamlining provisions in the FAST Act and the MAP–21 Act, that I and many of our colleagues have supported, has not been finalized. It has been 3 years, and in some cases, 5 or 6 years. Frankly, one of the best ways to speed up projects is to provide long term funding, program certainty, and make grant awards in a timely manner.

Listen to this. Time and again, research has shown that inadequate funding is the most common factor delaying water and transportation projects. Unfortunately, so far this Administration is holding up grants and delaying funding decisions. DOT released a funding notice for the INFRA Grant Program 8 months ago but still has not awarded the $1.5 billion Congress provided for that program. It has been 8 months.

In the first three-quarters of 2017 EPA awarded only a third as much grant funding as the agency did over the same period of time in 2016. The Department of Transportation's 2019 budget proposes cutting funding for all new transit capital projects, all new transit capital projects, to cut Amtrak funding and to just end the TIGER Program, which I think most of us think is a pretty good program.

For an Administration allegedly interested in efficiency in infrastructure—we are, too—it is frustrating to see so many critical programs being canceled, mismanaged, or underfunded. It is particularly hard to take this Administration's proposal to spend $200 billion on infrastructure seriously when that proposal is paired with a budget that would cut $240 billion from existing infrastructure programs.

Instead of funding our Nation's aging water infrastructure, the President's fiscal year 2019 budget proposal for the Corps of Engineers provided by Secretary James is down approximately 4 percent below the fiscal year 2018 request. For the first time in 20 years the President's budget for construction for this important entity is below $1 billion.

In addition to these budget cuts, the Administration authorized no new starts in investigations to fund project studies and no new starts in construction. That is cutting off the pipeline for new Corps of Engineers projects.

These cuts are disturbing given the Corps' backlog. I mentioned this 2 weeks ago, Madam Secretary, in our meeting with the President at the White House.

The Corps' backlog is $96 billion and growing. My understanding is we are looking at a budget proposal around $6 billion. We have a backlog of $96 billion, and we have a budget proposal for the

Army Corps of $6 billion. It will be a while before we get through that backlog, Mr. James.

Worse, the proposal would shift the burden for financing these projects almost entirely onto local stakeholders. Can some of them do more? You bet they can. Should they do more? You bet they can, but we have to be realistic, too.

Our country depends on water infrastructure investments in part because such infrastructure helps expand our GDP. We need to do that. Each Federal dollar spent on civil works programs generates $5 in revenue to the U.S. Treasury, and—listen to this—$16 in economic benefit.

The current budget proposal ignores the inherent Federal role the Corps plays in stabilizing our economy, the important role. These proposals are placed on the Corps and the sectors of our economy it supports through what could be a death spiral if we are not careful. The Administration appears to ignore these clear benefits in developing their budget proposal while selectively using a benefit to cost ratio to kill nationally significant projects.

In closing, let me briefly discuss revenues. Secretary Chao, when you testified before us last May you told us that the Administration's Infrastructure Task Force was looking at two issues, permitting and pay-fors. To be honest with you, I was surprised when I finally saw the Administration's plan devoted 15 pages to permitting while the word pay-for failed to appear even once. Maybe I missed it, but I do not think so.

My colleagues have heard me say more than a few times that if things are worth having, they are worth paying for. For decades we have relied in this country on a user fee approach to pay for much of our infrastructure, especially our transportation infrastructure, roads, highways and bridges. In years to come we will see an ever growing number of electric and fuel cell powered vehicles on our roads that do not use gasoline or diesel fuel.

In anticipation of that growing trend, 3 years ago we adopted right here in this Committee legislation that called for a multi-state pilot alternative revenue mechanism to fund roads in America. We call it Vehicle Miles Traveled or words to that effect, the road user charge. Over the next several years we should grow the number of States in that pilot and eventually run a national pilot of that funding approach.

Eventually we are going to morph away from taxing gas and diesel. We will have all these hydrogen projects on the road eventually and all these electric projects on the road. They are not going to buy any diesel fuel or gasoline, but we need to make sure they are going to be paying their fair share.

Unfortunately, that proposal is still a few years away. Meanwhile, we have a growing shortfall in the Highway Trust Fund to address.

Fortunately, several of us were in a meeting I alluded to earlier with the President and our Secretary last month when he repeatedly declared his strong support for a 25 cent per gallon increase in the Federal gas tax on gasoline and diesel fuel. That could become one important additional source of funds to help us pay for the improvements we need.

At first, I thought he was kidding, Madam Secretary, but he was not. When I talked to him later, he indicated he had been talking about this for weeks.

Bo Simpson had something like roughly 4 cents increase in gas and diesel tax over 4 years, going forward. I presented that to the President 2 weeks ago, as you recall, and he said, that is not enough, Tom. We need to do more. Twenty-five cents, we should do it now.

He said he would give us air cover, political cover, and I thought, God bless you, Mr. President. If he is serious about that, if he is serious about something along this line, we can do a deal here. We can get this show on the road.

Finally, let me say I believe there are others as well that would find that bipartisan support. With the Administration's support and the President's promised leadership, I hope we will be able to find agreement for a much needed source of new revenues to fund our critical infrastructure needs while we also pursue other promising ways to get better results for the transportation dollars we spent.

In those 15 pages I talked about of permitting reform, there are some good ideas. There are some that are not, but there are some good ideas there, too.

I understand figuring out how to pay for things is always the hard part, but we were not sent here to just attack all the easy things. We were sent here to do some tough things, to have difficult conversations, and make tough choices to achieve better outcomes.

I heard yesterday from our colleague and friend, John Cornyn, with whom I was with in the gym this morning. He told us he does not know if Congress will have time to do something on infrastructure in this session. I gasped when I heard that, shared with me by a reporter the other day.

I talked with Senator Cornyn about that today. He did not think he had said that. That is great. I hope he didn't because we have plenty of time, and we ought to have plenty of time to do infrastructure and transportation. That is what people sent us here to do. They want us to do the hard things.

If we do, with apologies to Mark Twain, we will amaze our friends and confound our enemies. Let us do both.

Thank you so much. Thank you for letting me go on.

Senator BARRASSO. Thank you, Senator Carper.

I would like to now welcome our guests: Hon. Elaine Chao, Secretary, United States Department of Transportation; and Hon. R. D. James, Assistant Secretary of the Army for Civil Works.

I would like to remind the witnesses that your full written testimony will be made a part of the official hearing record. We ask that you please keep your statements to 5 minutes so we may have time for questions.

I look forward to hearing your testimony beginning with Secretary Chao.

Madam Secretary.

STATEMENT OF HON. ELAINE CHAO, SECRETARY, U.S. DEPARTMENT OF TRANSPORTATION

Ms. CHAO. Chairman Barrasso, Ranking Member Carper, and members of the Committee, thank you for the opportunity to be here today.

Infrastructure is the backbone of our world class economy. It is the most productive, flexible, and dynamic in the world. It is a key factor in productivity and economic growth. Yet, the challenges are everywhere.

With respect to surface transportation infrastructure, traffic congestion and delays cost drivers nearly $160 billion annually. About one-quarter of our Nation's bridges are structurally deficient or in need of improvement. More than 20 percent of our Nation's roads are in poor condition, and the transportation needs of rural America, which account for a disproportionately high percentage of our Nation's highway fatalities, have been ignored for too long.

That is why 12 government agencies have been supporting the President on a comprehensive Infrastructure Initiative, which the President announced as a priority in the 2018 State of the Union address. Transportation is just one component. The Initiative includes—but is not limited to—drinking and wastewater, energy, broadband, and veterans' hospitals as well. It is designed to change how infrastructure is designed, built, financed, and maintained in communities across the country.

The goal of the President's proposal is to stimulate at least $1.5 trillion in infrastructure investment, which includes a minimum of $200 billion in direct Federal funding. The guiding principles are to: one, use Federal dollars as seed money to incentivize infrastructure investment; two, provide for the needs of rural America; three, streamline permitting to speed up project delivery; and four, reduce unnecessary and overly burdensome regulations.

In addition, a key element of the proposal is to empower decisionmaking at the State and local level. They know best the infrastructure needs of their communities.

Half of the new infrastructure funds would go toward incentivizing new State and local investments in infrastructure. A quarter of the Federal funds will be dedicated to addressing rural infrastructure needs, as prioritized by State and local leaders. As a former Secretary of Labor, I am pleased to note this plan also has a work force component to help workers access the skills needed to build these new projects.

The department is also implementing the President's One Federal Decision mandate announced in August 2017 to help speed up the delivery of new infrastructure and reduce costs. In fact, the Department is working on a new process to handle the permitting of complicated, multi-agency projects to meet the President's new expedited time line.

In addition to permitting reform, the department is doing its part to help grow the economy and create jobs through regulatory reform. Costs associated with new DOT regulations decreased by $312 million in 2017, and the department is on track to decrease these costs by at least $500 million in 2018.

By incentivizing new investment in infrastructure, eliminating overly burdensome regulations, providing support for rural America, and streamlining the permitting process, the department is helping to improve our quality of life and build a brighter future for all Americans. This Administration looks forward to working with all of you on these very important issues affecting our country's economy, vitality, productivity, and also quality of life.

Thank you again for inviting me, and I will be happy to answer any questions you may have.

[The prepared statement of Ms. Chao follows:]

Honorable Elaine Chao
U.S. Secretary of Transportation

Secretary Elaine L. Chao is the 18th U.S. Secretary of Transportation, and comes to the Department with extensive experience in the transportation sector. Early in her career, she specialized in transportation financing in the private sector. She began her career in public service working on transportation and trade issues at the White House, then served as Deputy Maritime Administrator, Chairman of the Federal Maritime Commission, and Deputy Secretary of the U.S. Department of Transportation.

Secretary Chao understands the critical role of the Department in ensuring the safety of our country's transportation systems. She is also keenly aware of the key role infrastructure plays in our nation's economic competitiveness, and in strengthening economic growth in both the urban and rural areas of our country.

Secretary Chao has a distinguished career in the public, private, and nonprofit sectors. An immigrant who arrived in America at the age of eight speaking no English, she received her citizenship at the age of 19. Her experience transitioning to a new country has motivated her to devote most of her professional life to ensuring that everyone has the opportunity to build better lives for themselves and their families.

This is Secretary Chao's second cabinet-level post. She served as the 24th U.S. Secretary of Labor from 2001-2009, the first Asian-American woman to be appointed to a President's Cabinet in American history. As U.S. Secretary of Labor, she focused on increasing the competitiveness of America's workforce in a global economy, promoted job creation, and achieved record results in workplace safety and health.

Prior to the Department of Labor, Secretary Chao was President and Chief Executive Officer of United Way of America, where she restored public trust and confidence in one of America's premier institutions of private charitable giving, after it had been tarnished by financial mismanagement and abuse. Secretary Chao also served as Director of the Peace Corps, where she established the first programs in the Baltic nations and the newly independent states of the former Soviet Union.

Secretary Chao earned her MBA from the Harvard Business School and an economics degree from Mount Holyoke College. Honored for her extensive record of accomplishments and public service, she is the recipient of 36 honorary doctorate degrees.
Secretary Chao is a resident of Jefferson County, Kentucky. Prior to her appointment as Secretary of Transportation, she was a Distinguished Fellow at Hudson Institute. She is the eldest of six daughters born to Dr. James S.C. Chao and the late Mrs. Ruth Mulan Chu Chao.

STATEMENT OF THE HONORABLE ELAINE L. CHAO
SECRETARY OF TRANSPORTATION
BEFORE THE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
HEARING ON

The Administration's Framework for Rebuilding Infrastructure in America

March 1, 2018

Chairman Barrasso, Ranking Member Carper, and Members of the Committee, thank you for the opportunity to testify today regarding our new infrastructure initiative.

Infrastructure is the backbone of our world-class economy—the most productive, flexible, and dynamic in the world. It is a key factor in productivity and economic growth, which has provided millions of hard working Americans with a standard of living that is the envy of the world. Yet today, these gains are threatened by aging infrastructure that is increasingly congested, in need of repair, and unable to keep pace with technological change.

The challenges are everywhere. With respect to surface transportation infrastructure, traffic congestion and delays cost drivers nearly $160 billion annually. About one-quarter of our Nation's bridges are structurally deficient or in need of improvement. More than 20 percent of our Nation's roads are in poor condition. And the transportation needs of rural America, which account for a disproportionately high percentage of our Nation's highway fatalities, have been ignored for too long.

That's why 12 government agencies have been supporting the President on a comprehensive Infrastructure Initiative, which the President announced as a priority in the 2018 State of the Union address. Transportation is just one component. The Initiative includes, but is not limited to, drinking and wastewater, energy, broadband and veterans' hospitals as well. It is designed to change how infrastructure is designed, built, financed and maintained in communities across the country.

The goal of the President's proposal is to stimulate at least $1.5 trillion in infrastructure investment, which includes a minimum of $200 billion in direct Federal funding. The guiding principles are to: 1) use Federal dollars as seed money to incentivize infrastructure investment; 2) provide for the needs of rural communities; 3) streamline permitting to speed up project delivery; and, 4) reduce unnecessary and overly burdensome regulations. In addition, a key element of the proposal is to empower decision making at the State and local level, who know best the infrastructure needs of their communities. Half of the new infrastructure funds would go towards incentivizing new State and local investments in infrastructure. A quarter of the Federal funds will be dedicated to addressing rural infrastructure needs, as prioritized by State and local leaders. And as a former Secretary of Labor, I'm pleased to note this plan also has a workforce component, to help workers access the skills needed to build these new projects.

We're already applying these principles to one of the Department's major existing infrastructure grant programs, Infrastructure for Rebuilding America (INFRA). I'm pleased to say communities have responded positively by modifying their proposals to reflect these new criteria. This quarter, the President has generously decided to donate his annual salary to the Department's INFRA grant program. INFRA directly reflects the President's priorities by providing dedicated, discretionary funding for projects that address critical issues facing our Nation's highways and bridges. Under the INFRA program, States and localities that secure some funding or financing of their own are given higher priority access to Federal funds. In addition, INFRA also reserves at least 25 percent of its funding to be awarded to rural projects.

The Department is also implementing the President's "One Federal Decision" mandate, which will help speed up the delivery of new infrastructure and reduce costs. The new process is designed to more effectively and efficiently handle the permitting of complicated, multi-agency projects to meet the President's new timeline to complete environmental reviews in two years, while preserving environmental protections. The Department is working on a new process to handle the permitting of complicated, multi-agency projects to meet the President's new expedited time line.

In addition to permitting reform, the Department is doing its part to help grow the economy and create jobs through an aggressive regulatory reform agenda. Costs associated with our new regulations decreased by $312 million in 2017, and we're on track to decrease these costs by $500 million in 2018. So, we are on track to save taxpayers nearly $800 million in regulatory burdens in 2017–2018 alone. A new Mercatus study concluded that DOT removed more regulatory restrictions than any other cabinet department in the President's first year.

By incentivizing new investment in infrastructure, eliminating overly burdensome regulations, providing support for rural America, and streamlining the permitting process, the Department is helping to improve our quality of life and build a brighter future for all Americans.

Thank you again for the invitation to appear before you today. This Administration welcomes the opportunity to work with you on these issues of critical importance to our country's infrastructure, so our economy can continue to grow and create good jobs for America's working families.

I will be happy to answer any questions you may have.

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Senate Committee on Environment and Public Works
"The Administration's Framework for Rebuilding Infrastructure in America."
March 1, 2018
Questions for the Record for Secretary Elaine Chao

Chairman Barrasso:

1. Secretary Chao, the President's infrastructure plan relies on leveraging new federal spending into a much larger value of investment. Can you give us some examples of programs within your department that demonstrate how the proposed $200 billion of new federal spending can grow into well over $1 trillion of overall investment?

   Answer: *The infrastructure proposal describes multiple programs that work together to increase the amount we invest as a society into infrastructure. The largest of these programs is the 'Incentives' program, at $100 billion. Designed as a discretionary grant program, the primary criterion that will be used to evaluate applications is how well the applicant leverages these dollars with non-Federal investment from State, local, and private sector partners.*

   This leverage selection criterion was modeled after a program we launched last year, called INFRA. We are currently assessing INFRA applications and aim to make selections later this Spring. While leveraging non-Federal funding is only one of a handful of selection criteria, we expect that the INFRA awarded projects will demonstrate the high-levels of non-Federal investment that is achievable when incentivizing project sponsors through competition.

   Another example is the Transportation Infrastructure Finance and Innovation Act (TIFIA) credit program. In recent years, each $1 of Federal funding has allowed TIFIA to provide approximately $14 in credit assistance, and support up to $40 of total infrastructure investment, including other State, local, and private sector investments.

2. Secretary Chao, the President's infrastructure plan encourages the participation of the private sector to achieve a more robust investment in infrastructure. What organizational changes are needed within the Department of Transportation to reap the greatest benefit from public-private partnerships and other innovative financing initiatives?

   Answer: *As the newly formed Build America Bureau continues to mature, we will be expanding our technical assistance and direct support capacity to help develop more public-private partnerships (P3s), with an emphasis on broadening the portfolio of P3 projects to include more transit, station and port projects.*

   P3s can also benefit from expanded financing mechanisms for projects via both the TIFIA and RRIF credit programs. Facilitating private participation in transportation projects and encouraging innovative financing mechanisms that help accelerate project *delivery are key objectives of both programs. For example, since the TIFIA program's inception it has attracted private co-investment in the form of debt or equity financing for over 20 large-scale infrastructure projects across the country.*

Toward that end, the President's plan includes $14 billion to be made available for the expansion of existing credit programs to address a broader range of infrastructure needs, giving State and local governments increased opportunity to sponsor or directly finance large-scale infrastructure projects under terms that are more advantageous than in the financial market. This will also serve to increase private participation where it makes sense.

3. **Secretary Chao, in addition to expediting project approvals, improvements can be made to the inner-workings of federal agencies. Too often, forms, stewardship agreements and other approvals add to the burden of States trying to improve infrastructure. Madame Secretary, can I count on your support for improving practices within the Department of Transportation to reduce the regulatory burden on State agencies?**

   Answer: *Yes. The concern that you raise has also been brought to our attention by some of our State DOT partners. We are currently reviewing our stewardship and oversight agreement templates to ensure they are consistent with current law and do not inadvertently impose additional unnecessary requirements on States as they seek to improve their transportation infrastructure.*

   We recognize that many types of agency policies can place unnecessary burdens on our stakeholders, in addition to our rulemakings, and we are carefully reviewing those types of actions as part of the Department's broader regulatory reform efforts.

4. **Secretary Chao, I want to thank you for the Department of Transportation's exceptional work using federal funds to improve infrastructure. Can you describe some of the institutional barriers and challenges that slow down project development and delivery, and what the Department can do to address those challenges?**

   Answer: *There are numerous barriers to efficient project delivery. For example, the current environmental review and permitting process is complex and project sponsors can find it difficult to understand which requirements apply to their projects. A wide variety of agencies are responsible for environmental laws and regulations, meaning that project sponsors must potentially work with a number of Federal agencies to complete numerous environmental documents to advance a single project. How these environmental laws and regulations are applied can be inconsistent and unpredictable across agencies. In addition, projects are not always reviewed concurrently, but sequentially. This adds a tremendous amount of time in the review process that is frequently unnecessary.*

   DOT is addressing the challenges within our own Department. The Infrastructure Permitting Improvement Center (IPIC) is the central resource for streamlining delivery *of all DOT projects. IPIC advances methods that facilitate efficient environmental review and approval of projects, encouraging innovative solutions to complex projects.*

We coordinate with project delivery staff across all our modes, sharing best practices, and collaborate with the 16 Federal agencies that comprise the Federal Permitting Improvement Steering Council, established by FAST-41. We also manage and maintain the Federal Permitting Dashboard.

However, these efforts are within the Department and recent reforms alone are not enough to achieve the 2-year time frame under the President's Executive Order and Infrastructure Initiative. That is why the Administration is proposing additional changes to the project delivery process.

Ranking Member Carper:

5. In your written testimony and opening statement, you state that "a key element of the proposal is to empower decision making at the State and local level, who know best the infrastructure needs of their communities." While I don't disagree with the goal of local empowerment, I question how the Administration's proposal—over half of which is for grants awarded by Federal agencies— would represent an increase in State or local decision-making.

   As you know, the Federal Highway Administration does not currently decide which projects a State advances for construction, and, moreover, since the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), each successive reauthorization has emphasized flexibility.

   a. Isn't it the case that the Federal-aid highway program is a Federally-assisted, State administered program that empowers States and locals to make investment decisions?

      Answer: *Yes. The Federal-aid highway program is a federally-assisted, State-administered partnership between the FHWA and the States. FHWA apportions the vast majority (approximately 92 percent) of Federal-aid highway funding to States. From there, States, and in some cases localities, select eligible projects on which to use those Federal funds.*

      In addition to the funding components of the plan, provisions for infrastructure improvement include many policy provisions to empower State and local officials in how they manage existing assets and develop new assets. A key difference between the Federal-aid highway program and the Infrastructure Initiative's Incentives program is that the latter provides substantial additional flexibility to project sponsors regarding the scope of eligible projects and infrastructure asset classes.

b. Knowing that TIGER grants are so popular, and so successful because local communities, especially smaller ones, are able to directly apply for federal funding, why does the Administration propose eliminating TIGER when TIGER already accomplishes the Administration's stated goals?

Answer: *We know how popular TIGER grants are with members of Congress; however, TIGER is neither designed nor large enough to address the Nation's comprehensive infrastructure needs. For example, TIGER addresses only certain surface transportation infrastructure and has not been used to spur additional State, local and private sector investment on the scale of the President's plan. Projects originally eligible for TIGER grants will have the opportunity to apply and compete for funding included in the Administration's Infrastructure Initiative. The proposal provides an additional $200 billion over the next ten years for increased Federal spending, including funding for merit-based transportation infrastructure projects, and will provide an important capability for the Department to address our nation's urgent transportation infrastructure needs at the state and local level.*

6. In Chairman Barrasso's second question to you, the Chairman unfortunately relied on outdated numbers to support the claim that highway projects take 6.5 years on average to approve.

   Since you were not able to correct the record at the hearing, I want to provide you the opportunity to confirm more recent and relevant data from the Federal Highway Administration (FHWA).

   The information on the Federal Highway Administration's website of "Estimated Time Required to Complete the NEPA Process" indicates that in fact the median completion time for highway EIS projects is just 3 years and 8 months.

   Please confirm that the FHWA analysis on highway project review times is the most recent and accurate data, and will you commit to correcting misinformation about highway reviews in the future?

   Answer: *There are multiple sources of information on time to complete EISs. The FHWA website I assume you are referring to reflects a **median** time of 44 months for 2016 (compared to the FHWA's 2013 MAP-21 Section 1323 Report to Congress that included an **average** EIS processing time of 73 months). FHWA changed its methodology for measuring time from average to median. In our DOT Booklet "The President's Initiative for Rebuilding America," we cite government-wide statistics from GAO and National Association of Environmental Professionals that the average time to complete an EIS is 4.6 or 5.1 years, respectively. The point is that it continues to take too long and that reforms are needed. I think we can all agree that we should remedy inefficiencies in the process that do not eliminate important environmental protections.*

7. A successful negotiation on CAFE—one that does not end in litigation—must involve the state of California, and must also involve level participation of both the Environmental

Protection Agency as well as the National Highway Traffic Safety Administration within USDOT, and strong leadership from you as Secretary of USDOT. Unfortunately, as I relayed at our hearing, I have heard reports that indicate that negotiations with California are not happening in a meaningful way, and one reported barrier has been the failure of the NHTSA staff to answer technical questions raised by EPA staff about the fuel economy "Volpe" model developed by NHTSA.

I recognize that you did not understand the question at the hearing, so I want to provide you another opportunity commit to do two things as this process moves forward:

a. Will you direct your political and career staff at NHTSA and USDOT to quickly and completely answer all questions raised by EPA staff about the NHTSA model and its assumptions? ***Answer:*** *We will work closely with the EPA.*

b. Will you commit the Department to work closely with EPA AND with California and *actively* negotiate standards that all sides can support?

   Answer: *We will carefully consider the input of all stakeholders, including California.*

8. In response to a question from Senator Cardin about the federal government's commitment to maintain its infrastructure, you stated that the federal government only funds 14 percent of highway improvements in the U.S.

   Later, in response to a question from Senator Markey, you then stated that the federal government only funds 16 percent of highway improvements in the U.S.

   However, according to the most recent Conditions and Performance Report from the Federal Highway Administration, the direct expenditures from the Federal government represent 21.4% of all spending on roads and bridges in America. Further, this figure includes all expenditures on roadways, including both the roadway expansion and other capital projects eligible for Federal funding, as well as the traffic services, highway patrols, and maintenance work such as snowplowing—none of which is eligible for federal spending. Looking at just the capital projects, federal funding represents 43% — nearly half of total highway expenditures.

   Do you concur with the accuracy of the data published by the Federal Highway Administration and will you to commit to using the correct information in future testimony?

   Answer: *We concur with the accuracy of FHWA's data, which supports the point that the Federal government consistently funds a distinct minority of total expenditures for infrastructure.*

9. In response to a question from Senator Markey, you stated that "the 80-20" federal share only applies to the Interstate. You repeated this same assertion on Tuesday, March 6 at a House Transportation and Infrastructure Committee hearing.

   This statement on the Federal-share is incorrect, and more importantly, it provides the false impression that further devolving the federal role and limiting federal contributions is somehow aligned with a limited role that currently exists.

   As I hope you are now aware, the 80-20 Federal share exists for <u>all</u> Federal-aid projects, with the exception of "sliding scales" States, interstate projects, and safety projects, among other exceptions, that *increase* the Federal share – not decrease.

   We must also be clear about the differences between the Federal share and the overall Federal contribution, and about the overall significance of Federal funding to infrastructure improvements. While federal highway spending represents just 21% of all money spent on the nation's roads and bridges each year, the capital expenditures data from the Federal Highway Administration shows that federal funds on average support nearly half of state department of transportation outlays on road and bridge capital improvements. In fact, in some states such as Alabama, Georgia and South Carolina, federal funds represent more than 70 percent of total highway improvements.

   Is there anything further on this topic that would you like the opportunity to correct for the record?

   <u>Answer:</u> *The Administration's initiative is focused on addressing the country's needs across all types of core infrastructure, namely roads, bridges, railways, waterways, ports, water utilities, electric utilities, broadband, superfund cleanup sites, among others. These needs are so immense that all parties must contribute. The degree of federal involvement in financing these types of infrastructure varies widely, but is consistently the minority. The President's plan proposes the development of real partnership relationships.*

10. In response to a question from Senator Fischer as to whether there is "anything specific on rural interstates" in the Administration's plan, you did not respond directly to her question at the hearing. Instead, you noted that the Administration only sent infrastructure principles and not legislative text.

    This would seem to imply that the Administration's plan does not contain specific language on rural interstates. But indeed, there is a specific mention of rural interstates in the Administration's principles.

    To qualify for rural performance grants, a State like Nebraska would be forced to leverage both its formula funds with a Federal credit program, and then "reward rural interstate projects through the infrastructure incentives program". The incentives program would be measured in large part by how successful the project is at attracting non-Federal resources.

Would you confirm this reading of the Administration's proposal and add any additional relevant information on this topic?

Answer: *No, the Administration's proposal provides significant support for rural areas. Most significantly, the Rural Infrastructure Formula program provides $40 billion in block grants to state governors to address the rural infrastructure needs in their state, which could include rural interstates. No match is required for these funds. In addition to the formula program, the Administration's proposal for Rural Performance Grants would only require a State to meet one or more of the criteria options below.*

In order to qualify for rural performance grants, a State would be required to:

- *Publish a comprehensive rural infrastructure investment plan (RIIP) within 180 days of receiving rural formula funds. The RIIP would demonstrate how the State's intended rural projects align with the evaluation criteria in the infrastructure incentives program, including State, local and private sector investment in eligible projects.*
- *Demonstrate the quality of any investments planned with rural performance funds.*
- *Demonstrate performance in leveraging formula distributions with Federal credit programs and rewarding rural interstate projects through the infrastructure incentives program. (Note: ~~Again,~~ this ~~is~~ refers to all types of eligible asset classes, not just interstate highways. Also, this is intended to reflect multi-state infrastructure of all types, that serve regional needs rather than being focused on jurisdictional boundaries, which are sometimes misaligned to infrastructure investment needs.).*
- *Demonstrate the State's performance in utilization of Rural Infrastructure Program formula funds, consistent with the RIIP based on stated general criteria.*

11. In a document released after your testimony on March 5, available at: https://www.transportation.gov/sites/dot.gov/files/docs/briefing-room/305216/infrastructure-initiative-booklet.pdf, the Administration justifies its infrastructure proposal by saying: "Federal transportation funding is allocated and managed in a way that raises project costs while providing few incentives for efficient use of funds to achieve measurable outcomes." The infrastructure incentives program, on the other hand, weights the ability of the project to secure non-federal funds at 70 percent, while "evidence to support how projects will spur economic and social returns on investment," or the public value of the project, is only weighted at 5 percent. It is likely that this weighting will incentivize the construction of new, revenue generating infrastructure (like toll roads), but will result in lower scoring for repair projects.

There are substantial repair needs in our nation, and repair and maintenance projects are shown to have more immediate and lasting benefits compared to new construction. This is

why the bipartisan, performance-based framework from the last two transportation bills, prioritized road and bridge condition as a national goal.

In a previous hearing before this Committee, you said that the President's top priority is rebuilding, repairing, and maintaining the nation's infrastructure. However, the vast majority of the projects that will improve our infrastructure – the repair and replacement of roads, bridges, and existing water infrastructure –won't work as public-private partnerships because they won't attract private investments.

a. Does maintenance of existing assets continue to be a top priority for the Department of Transportation, and a top infrastructure priority for President Trump? ***Answer:*** *Yes.*

b. Does weighting the public value of the project at only 5 percent provide an incentive for the most "efficient use of funds to achieve measurable outcomes"? ***Answer:*** *Yes.*

c. Is the Department's proposal for incentives likely to result in a "fix-it-first" approach to maintaining our existing system?

Answer: *The Administration believes these types of funding decisions and priorities are best decided and implemented at the state and local level.*

d. Is the focus on leveraging non-Federal investments likely to result in investment in maintenance and repair projects?

Answer: *Yes. New revenue for infrastructure can stem from a range of sources. This includes, but is not limited to, the individual asset itself. Also, the Incentives program gives significant weight for purposes of rating applications for new revenue committed toward operations, maintenance, and rehabilitation.*

12. In response to a question from Senator Inhofe, you alluded to the authorities created via the Federal Permitting Improvement Steering Council (FPISC). Established in 2015, the FPISC is intended to move larger infrastructure projects through a review process more efficiently and develop new procedures to standardize interagency consultation and coordination practices.

The FPISC Executive Director is a presidentially-appointed position that is currently not filled. Why has this position not been viewed as a key priority to help accelerate project delivery?

Answer: *The Department is on the Permitting Council, and works closely with the FPISC Office of the Executive Director in advancing the FAST Act Title 41 measures to improve the permitting process and Project Delivery. As you may know, the Department also manages and maintains the Permitting Dashboard created by FAST Act Title 41.*

However, the Department is not involved in the selection or hiring of an Executive Director.

13. In response to a question from Senator Sullivan, you mentioned that project developers conservatively budget three percent is added in direct construction costs for each year of delay.

    On the Federal Infrastructure Dashboard, there are 18 "paused" transportation projects with a reason listed for the pause—11 list a lapse of funding, and 6 projects cite a necessary action by the state, local, or tribal entity, as a cause of their delay. Given this data –

    a. To what extent is funding shortages, the need for a state, local, or tribal action, or the need to address community opposition to projects, the cause of delay for large transportation projects?

    b. Will a focus on new federal streamlining address the delays that result from lack of funding, community opposition, or the need for a state, local, or tribal action?

    Answer: *There are over 200 Department projects on the Permitting Dashboard. As you point out some are shown as paused for various reasons cited. As you are aware, there are many reasons that projects are delayed, including due to inefficiency in the environmental review and permitting process; however, "pauses" on the Permitting Dashboard reflect delays that are entirely outside of the federal government's control. Reforms that target these inefficiencies while continuing to maintain necessary environmental protections, will accelerate project delivery, save funds that can be used to advance these and other critical projects, and achieve improved outcomes for the environment and communities. These reforms will reduce project costs as well as provide predictability to the process, thereby incentivizing public and non-public investment.*

14. You stated that the Administration has "fully implemented" all project delivery provisions except for those still to be implemented in 2 remaining regulations to implement the FAST Act.

    a. Would you please clarify how you define when a provision of law is "fully implemented"? In other words, does full implementation include publishing guidance and memoranda that help communities to implement these provisions?

    b. Would you please provide my staff with a list of statutory provisions from MAP-21 and the FAST Act that have been fully implemented, including all anticipated regulations, guidance, and memoranda?

    c. Has the Department of Transportation independently evaluated the accelerated project delivery provisions in place to determine the efficacy of these tools already provided by Congress?

Answer: *My response was to explain those provisions of MAP-21 and FAST Act that are in effect, implemented, and being enforced. As stated, with those two exceptions, all Accelerating Project Delivery provisions of those Acts are fully implemented. We would be glad to provide your staff with a list of statutory provisions under those Acts that have been fully implemented and any anticipated guidance/regulations. There are no anticipated regulations outside of those two final rules I previously noted, both of which are to be finalized this summer. We previously provided your staff a detailed summary of the provisions covered by those two rules.*

15. The largest program in the Administration's proposal puts the onus on local and state taxpayers by changing the federal match on new interstate construction projects from 90 percent to 20 percent.

This requirement in the Administration's proposal for local governments to raise money or engage in public private partnerships (P3) will be a challenge for many local governments that do not have the authority to raise funding locally or to partner with private entities in P3 arrangements. Those powers must be granted by the state.

Are you concerned that this uneven playing field will allow some communities to access funding while others get left behind through no fault of their own?

Answer: *At best, Federal funding for infrastructure represents a minority of total spending. Spending across public infrastructure is approximately 20 percent by the Federal government and 80 percent by State and local governments. The President's plan supports traditional funding levels.*

The President's proposal does not in any way change the existing matching requirements for the Federal-aid highway program; each state will continue to receive their current Highway Trust Fund dollars. The President's proposal is for additional funds and we want to partner with the states.

Furthermore, the proposal provides up to 20 percent Federal funding as a percent of new revenue, not project cost.

16. Our 21st century infrastructure needs are very different than our 20th century infrastructure needs were. Your infrastructure proposal sets aside funding for loans for transformative projects that presumably are intended to help meet modern needs of communities. What types of projects and modes of transportation specifically do you believe are needed in the 21st century?

Answer: *As part of the President's Initiative for Rebuilding Infrastructure in America, the Transformative Projects Program would provide Federal funding and technical assistance for bold, innovative, and transformative infrastructure projects that could dramatically improve infrastructure and have significant positive impact on the Nation, a region, State, or metropolitan area.*

The Program proposes $20 billion in funding that would be awarded on a competitive basis to ambitious, exploratory, and ground-breaking project ideas that are likely to be commercially viable, but that possess unique technical and risk characteristics that otherwise deter private sector investment.

The Department of Commerce (DOC) would serve as the Chair for the purposes of program administration and could request other relevant Federal agency employees to serve on a temporary assignment to assist in the administraion of this program.

17. **Currently, state and local governments receive and control 92 percent of Federal aid highway funds via formula and make the vast majority of decisions regarding the procurement and use of these dollars. You have raised questions about the inefficiency in existing programs and the current use of Federal resources. These are important questions of oversight, transparency and accountability, and I share your goal to improve the transparency and accountability for projects receiving Federal aid highway funding.**

    Congress included a provision in the FAST Act –Section 1402 – designed to do just this.

    a. **Would you give us an update on efforts to implement and utilize Section 1402 of the FAST Act to improve the transparency and accountability of the use of Highway Trust Fund revenues?**

       Answer: *FHWA is currently working on the reports under Section 1402 of the FAST Act, which are a high priority for the agency to implement. For the semiannual report on apportioned and allocated funding, the draft report data is currently being validated. We expect to complete this by the end of April 2018, with reports being retroactively prepared for the ends of fiscal years 2016 and 2017 and then reports being prepared on a semiannual basis thereafter. For the annual project data report, the data requirements are currently being researched and discussed with the programmers for FHWA's Fiscal Management Information System (FMIS); it is expected that the project data report will be completed in the coming few months.*

    b. **What additional steps does the Administration plan to take to ensure that projects receiving Federal funding under this proposal are procured, designed, and constructed in the most transparent and accountable method possible?**

       Answer: *We will continue to monitor the effective and efficient use of Federal-aid funds through FHWA's Risk-based Stewardship and Oversight (RBSO) Program, which implements 23 U.S.C. 106(g). Information about the RBSO Program, and other stewardship activities, is available at https://www.fhwa.dot.gov/federalaid/stewardship.*

18. **The most recent disaster relief bill includes incentives for states to increase resiliency to extreme weather, and a National Institute for Building Sciences report found that federal investment on hazard mitigation has a 6:1 return on investment. Is there opportunity under**

the Administration's plan to incentivize or require that those projects are built higher or stronger to withstand storms, heat and other extreme weather that wears infrastructure and can put communities at risk? This could mean requiring critical infrastructure to be elevated above the 500-year flood elevation, or incentivizing use of green infrastructure features that can reduce runoff, improve water quality, and reduce strain on sewer and stormwater systems.

Answer: *The Infrastructure Initiative is designed to change how infrastructure is designed, built, financed and maintained in communities across the country. The Department is committed to increasing its effectiveness in ensuring that infrastructure is resilient and expects recipients of Federal funds to incorporate future operations and maintenance costs associated with a project's life-cycle into the planning and preparation of a project. Furthermore, the Incentives Program has an emphasis on incorporating the development and use of new and rapidly evolving infrastructure technology to improve cost and performance.*

This Administration welcomes the opportunity to work with you on these issues of critical importance to our country's infrastructure, so our economy can continue to grow and create good jobs for America's working families.

19. Providing alternatives to transportation by car can connect communities to jobs and commercial areas, creating economic opportunity while reducing wear on congested road systems. Alternative fuel vehicles can also make communities more resilient to disasters when they strike. Impacts of extreme weather events can be widespread, as we saw when areas across the South experienced gas shortages in the wake of last year's hurricanes. In light of this, is there a national security and resilience benefit to the deployment of alternative fuel and electric vehicles and their supportive infrastructure, and what is the appropriate balance between funding for roads and funding for public transit?

    Answer: *Modernizing our infrastructure across the board is critical to ensure our country remains competitive and safe. That's why the Administration's proposal utilizes a comprehensive approach to infrastructure, beyond transportation, in order to address our diverse needs nationwide.*

20. The Department's Inspector General released a report in January of this year that offered some critiques of the Federal Highway Administration's guidance on infrastructure resilience. Their report pointed out that DOT has not defined "resilience improvements" or provided guidance to states for making decisions about incorporating resilience upgrades into emergency relief projects. It also noted that the Department had not set up a process to track State DOTs' efforts to include resilience improvements into their emergency relief projects.

    a. How is DOT addressing these concerns and what are you doing to better enable the states to make needed resilience improvements in their ER projects and in their broader long-range transportation planning?

       Answer: *We are addressing these concerns with several actions:*

1. We are in the process of revising the Emergency Relief (ER) procedures and guidance to address OIG's audit report recommendations. Specifically, these materials will include improved definitions to better clarify that resilience improvements may be funded using ER program funds in response to qualifying emergency events as well as specific guidance on how to incorporate resilience into qualifying ER projects. The ER program allows repairs that are considered betterments when the betterment can be economically justified as providing a direct savings to the ER program by being more resilient and thereby reducing the likelihood of future damages that will require ER funding.

2. We have also started a third round of resilience studies, in addition to providing technical assistance to State DOTs and MPOs regarding integration of resilience into planning and project development.

3. We are moving forward with an effort to identify best practices by States in building resiliency in their response to emergency events. These practices will be captured and shared with federal, state, and local agencies through regular outreach events.

b. **To what extent are states and MPOs currently identifying resilience improvements in their long-range transportation plans and in their Transportation Improvement Programs?**

Answer:

1. The FAST Act and the Statewide, Nonmetropolitan, and Metropolitan Transportation Planning rule (May 27, 2016) added resiliency and reliability of the transportation system as a Statewide and Metropolitan Transportation Planning factor.

This requires States and MPOs to carry out a continuing, cooperative, and comprehensive transportation planning process that provides for consideration and implementation of projects, strategies, and services that will improve the resiliency and reliability of the transportation system and reduce or mitigate stormwater impacts of surface transportation.

2. States and MPOs are required to consider in their planning process any reasonable alternatives for facilities that have been repeatedly damaged by an emergency event. In general, FHWA's ER Program is provided for the repair of a damaged facility to its pre-disaster condition.

During the planning process, FHWA's ER program may fund repairs to improve a damaged facility to current geometric and construction standards in addition to betterments. In this manner, resilience improvements may also be funded using ER program funds and should be captured in plans and programs.

3. In their Metropolitan Transportation Plans (MTPs), MPOs are:

- *Required to include an assessment of capital investment and other strategies to reduce the vulnerability of the existing transportation infrastructure to natural disasters.*

- *Encouraged to consult with agencies and officials responsible for natural disaster risk reduction.*

4. FHWA has conducted several pilot studies in partnership with many MPOs to assess their vulnerabilities and consider them as part of their transportation decision-making processes.

We see these pilots serving as examples for other MPOs in meeting the FAST Act requirements regarding resiliency and reliability of the transportation system as a Statewide and Metropolitan Transportation Planning factor.

21. **If you've ever visited my state, you may well have crossed the Indian River Inlet along Route 1. The bridge that crosses the Inlet today is far different from the bridge that people relied on prior to Hurricane Sandy. Storm damages to the original 1934 bridge necessitated a replacement as early as 1940. The newer bridge lasted eight years, but then collapsed from ice flows. It was rebuilt again in 1952 and suffered many years of storm damage and storm repairs.**

    When Sandy dealt the final blow to this critical highway asset, a new stronger and more storm-ready bridge had already been erected alongside of it, so those who had to cross the Inlet were spared the burden of finding other longer detours.

    a. **Does your Department have a sense of how many other highway assets across the country are in the same perilous state as our old Indian River Inlet bridge?**

       Answer: *Over the years, FHWA has worked with the American Association of State and Highway Transportation Officials (AASHTO) and State DOTs to significantly improve the ability of engineers to better understand, predict, and design for surge, scour, wave and other forces associated with coastal storms. An important insight is that, like the details of the Indian River Inlet, every coastal transportation asset faces unique characteristics and challenges that make them more or less susceptible to these storms. What might work for the Indian River Inlet bridge may not be suitable for other coastal assets. As a result, we also promote and support tools and programs, such as the Collaborative Hydraulics: Advancing to the Next Generation of Engineering (CHANGE) initiative, part of the 4th round of innovations under the Every Day Counts (EDC) initiative, that allow State DOTs, which are much more familiar with their assets, to be in a much better position to forecast vulnerability. This allows FHWA and bridge owners to apply risk-based, data driven approaches to best consider such* *vulnerabilities at the over 12,000 bridges within 15 nautical miles of our nation's coasts (including Great Lakes).*

b. What is the Department doing to assure that the bridges we are planning and building today can actually endure the storms of the future?

Answer: *FHWA provides bridge owners with a multi-level framework that ensures consistent design and construction standards and practices. Through Federal regulations, State DOTs are required to use a suite of AASHTO standards for the design, construction, and inspection of highway bridges on the National Highway System (NHS). Off the NHS, State DOT standards apply, but in general State DOT standards fulfill the AASHTO requirements.*

A rigorous process that involves all 50 State DOTs, the DOTs for the District of Columbia and Puerto Rico, and the Federal Highway Administration regularly maintains, updates, and revises these standards. Recognizing new situations and changes, and advancements in approaches and conditions, the process considers and incorporates research results, changes in methodology, innovations, new materials, lessons learned and other sources of information that might affect or contribute to content. To illustrate, after Katrina, AASHTO and FHWA jointly developed guidance specifications to incorporate effects of wave forces upon bridges.

With regard to natural extreme events like flooding or earthquakes specifically, the AASHTO standards use probability models to forecast effects on a bridge. For example, design standards require bridges to evaluate scour for the 100-year flood event and check for the 500-year event.

22. While Congress and the Administration work to enact this out-of-cycle comprehensive infrastructure funding bill this year, we are also thinking about the upcoming reauthorization of the FAST Act, which expires in a little over two years. Does the Administration plan to transmit a reauthorization proposal for the surface transportation programs?

Answer: *This Administration firmly believes that Infrastructure is a bipartisan issue and we look forward to working with Congress not only on legislative text for the infrastructure bill, that addresses many forms of infrastructure beyond surface transportation, but also a long-term reauthorization proposal for surface transportation specifically, as appropriate.*

23. In 2016, there were 37,461 men, women, and children killed on U.S. roads. During the first decade of the 21st century, over 400,000 people died on America's roadways, while millions suffered life-altering injuries.

a. What is U.S. DOT doing to improve safety on U.S. roads?

Answer: *The Department has adopted a systemic, safety management system (SMS) approach to improving transportation safety that relies on identifying and prioritizing risks, selecting countermeasures to address safety issues, and implementing those countermeasures. To improve roadway safety, we will continue to: work effectively with State, local, Tribal, and private partners; reduce safety risks by addressing human behavior, vehicle safety, and infrastructure; improve safety data analysis to guide decisions; develop, promote, and employ safety countermeasures; ensure that automation brings significant safety benefits; and pursue performance-based rather than prescriptive regulations. This includes furthering the systemic safety strategies outlined in the USDOT Strategic Plan.*

b. Does U.S. DOT have any roadway safety plans in the upcoming future to reduce fatalities and serious-injuries?

Answer: *The Department recently released its Strategic Plan, which outlines a number of strategies to address multimodal safety issues, including roadway safety. USDOT plans to:*

1. *Identify the risk factors that contribute to fatalities and serious injuries and implement evidence-based risk elimination and mitigation strategies;*
2. *Improve the collection, management, and integration of data on transportation-related fatalities and serious injuries, and their precursors, to enhance safety analysis;*
3. *Collaborate with stakeholders to foster behavior and infrastructure changes that improve safety;*
4. *Address the disproportionate transportation safety risks in rural communities;*
5. *Establish a Departmental commitment to continually improve transportation safety by fostering a positive transportation safety culture across the transportation sector;*
6. *Evaluate the effectiveness of risk management strategies in reducing risk; and*
7. *Promote the use of performance-based safety standards and measures.*

FHWA, NHTSA, and FMCSA work with States as they submit roadway safety plans to fulfill Federal-aid and safety grant program requirements to ensure that States use systematic approaches to reducing fatalities and serious-injuries. FHWA completed a MAP-21 required rulemaking on Safety Performance Management, which has five performance measures on roadway fatalities and serious injury counts and rates, including a specific breakout for non-motorized users. States established their statewide targets for calendar year 2018.

c. What work is U.S. DOT completing with specific regard to the safety of vulnerable road users such as pedestrians and bicyclists?

Answer: *A multimodal pedestrian and bicycle safety committee assists in coordinating non-motorized user safety, and we are taking action through behavioral, vehicle, and infrastructure safety to address the increase. The FAST Act authorized a new non-motorized grant program, and NHTSA awarded grants to 23 eligible States, Puerto Rico, and the District of Columbia in FY 2018. NHTSA is also evaluating strategies to build public support for education and enforcement programs through demonstration projects. For vehicle safety, NHTSA is conducting research on Pedestrian Crash Avoidance and Mitigation technologies to reduce crashes.*

We issued the FAST-Act required Safety for All Users Report in January 2018 that focuses on the most vulnerable users, and identified eight multimodal policy and program areas that State departments of transportation can adopt and implement. Additionally, FHWA updated their list of Proven Safety Countermeasures in 2017 and added pedestrian leading intervals to the other vulnerable user infrastructure safety strategies. We continue our focused approach to pedestrian and bicycle safety by providing specialized technical assistance to States and cities with the most critical pedestrian and bicycle safety issues. Through the Fostering Innovation in Pedestrian and Bicycle Transportation Pooled Fund Study, FHWA is partnering with contributing States to supplement existing research venues and fill important but missing research gaps.

d. **How is U.S. DOT bringing innovative, new ideas to roadway safety?**

Answer: *The use of data for policy decisions is an important aspect to improving roadway safety, and the Department recently launched the Safety Data Initiative to modernize our data analysis and integrate traditional datasets with new "Big Data" sources to gain insights into transportation safety. We believe we can identify and better understand patterns of risk and help State and local partners take steps to reduce this systemic risk by working with firms that analyze Big Data, researchers, national organizations, and State and local partners.*

The Every Day Counts (EDC) initiative promotes the use of innovative, new ideas. The EDC is a State-based model that identifies and rapidly deploys proven, yet underutilized innovations to enhance roadway safety amongst other focus areas. Examples in the 2017-2018 program include Data-Driven Safety Analysis and Safe Transportation for Every Pedestrian, which includes pedestrian safety countermeasures at uncontrolled crossing locations and un-signalized intersections.

e. **Are there new partnerships and efforts to make U.S. roads safer? If so, explain.**

Answer: *FHWA, NHTSA, and FMCSA formed a partnership with the non-profit National Safety Council and created the Road to Zero coalition. The goal of the coalition is to eliminate traffic fatalities by 2050, and the Coalition comprises more than 600 members from roadway, behavioral and vehicle safety organizations, nonprofit groups, public health officials, and technology companies. NHTSA and FHWA committed funds to support grants through the coalition, and awarded funds to innovative proposals.*

More recently, NHTSA launched an initiative to combat drug-impaired driving on U.S. roads. On March 15, 2018, NHTSA hosted a public meeting to elevate the dialogue, increase awareness, and foster the exchange of ideas and solutions that will make an impact. This Call to Action convened stakeholders including safety partners, State and local elected officials, data and policy experts, law enforcement and criminal justice professionals, toxicologists, and drug recognition experts.

24. **In April of 2016, the U.S. Department of Transportation submitted a report to Congress that recommended that no changes in Federal truck size and weight laws and regulations be considered until data are be obtained on the safety of these mammoth trucks.**

    a. **Has the U.S. DOT obtained this data?**

    Answer: *In 2017, we contracted with the Transportation Research Board (TRB) to develop a research roadmap to address deficiencies in data and modeling affecting truck size and weight analysis. This Roadmap will be delivered later this year (late summer/early fall 2018) in a public forum by TRB. This Roadmap is not a data collection effort. After delivery of the Roadmap, the Department will then consider authorities, costs, and timeline for implementation of programs to address the research roadmap recommendations.*

    b. **If not, can you assure this Committee that U.S. DOT will continue to recommend against increasing truck size and weight laws and regulations until this data is obtained, evaluated and published for public review?**

    Answer: *At this time, the Department has not changed its position regarding Congressional action on the alternative vehicle configurations included in the Comprehensive Truck Size and Weight Limits Study. There are no additional analyses being conducted that are intended to result in a report to Congress.*

    The study, a requirement of MAP-21, has concluded. The Department committed to producing a study that was transparent, accurate, objective, and data-driven.

    The final report for the study included results that stemmed from improvements in models and data since the last Federal study in this area. As noted in the report, there continue to be issues pertaining to data availability, data quality, and models that limit the level of any future analysis in critical research areas, including safety, compliance, and the long-term effects of various truck types on bridges. While the Department fully utilized the data and models available to the maximum extent practicable, it is simply not possible to apply these results on a nationwide basis, nor is it possible to reach national conclusions. The completion of the current TRB research roadmap will help inform steps to obtain data and models necessary for any future evaluation of the impacts of larger and heavier trucks.

25. We all share a goal of deploying automated vehicles (AVs) in a way that will reduce the unacceptable number of deaths and injuries that occur each year on our Nation's roads. However, during the 2016 Los Angeles Auto Show an AV could not operate because it could not read faded lane markings. Numerous experts believe that significant upgrades to our Nation's roads are required for the safe and efficient operation of AVs.

  a. Has the U.S. Department of Transportation (U.S. DOT) determined the amount of funding that will be needed to upgrade our Nation's deteriorating infrastructure to accommodate the safe operation of automated vehicles?

  Answer: *USDOT has initiated the process of identifying the gaps that needs to be addressed through various modal AV focused requests for comments/information (RFC/RFIs). The Department is seeking comments from our stakeholders and AV experts to understand the capabilities and limitations of AVs. This information will in turn inform the Department on setting priorities on how to address infrastructure needs to safely accommodate AVs in our Nation's infrastructure.*

  b. If so, how much of the overall national cost needed to upgrade highway infrastructure to be "AV-ready" will be forthcoming from the Federal Government?

  Answer: *The Department is in the process of identifying the capabilities and limitations of AVs through various modal AV focused RFC/RFIs. This information will in turn inform the Department in setting priorities and identifying the funding needs to safely integrate AVs in our Nation's infrastructure.*

  c. Should wide-scale deployment of AVs occur before those infrastructure upgrades are completed and you can assure the public that our Nation's roads can safely accommodate AVs?

  Answer: *AV integration and infrastructure upgrades could occur in parallel, assuming there is collaborative dialogue between the Department and the AV experts. The needed infrastructure upgrades are dependent upon AV's technical requirements and the operational requirements. To understand these requirements and the general infrastructure needs of AVs, the Department has released AV focused RFC/RFIs to gain external stakeholder input.*

  Many of the vehicles currently available in the US marketplace are SAE Level 1 & 2 automated vehicles. Industry experts speculate that Level 3 & 4 vehicles could be on the Nation's roads in the next five-ten years. Level 5 vehicles perhaps in more than 10 years. The Department would need to conduct various research efforts and work with industry to understand the needs of AVs from our infrastructure. The Department is currently identifying these needs from our stakeholders through various RFCs and RFIs. Once the Department has gone through this exercise, we will be in a better position to estimate how much funding would be needed to accommodate AVs in our Nation's infrastructure.

26. One of the hardships for funding rural infrastructure is the difficulty of attracting private investment. Private companies certainly benefit from public infrastructure in good working condition, but those same companies are unlikely to invest in that infrastructure unless there is a steady revenue stream. With that in mind, how does the Administration propose incentivizing companies to invest in this rural infrastructure?

Answer: *We recognize that private investment won't always make sense for every type of project in every state. That is why the Infrastructure Initiative includes a robust Federal funding program for infrastructure in both urban and rural areas. Additionally, it is the intent of the infrastructure incentives program to attract rural focused investors by rewarding rural multi-state projects and unlock further financial support through rural performance grants for states that demonstrate performance in many outcomes areas, including leveraging formula distributions with Federal credit programs.*

One form of private investment, public-private partnerships, or P3s, are about much more than toll roads. They have also proven successful for projects that are non-tolled or otherwise have insufficient or uncertain project-related revenue streams.

Availability payments are a way to support non-tolled or tolled projects. Under this model, the private partner receives scheduled payments from the project sponsor over the period of the contract. The source of these payments can be either taxes or road user charges. Usually the payments are tied to completing construction milestones or for meeting operations and maintenance performance standards.

This type of arrangement can work just as well in rural areas as in urban areas. In recent years, rural P3 projects in Ohio, Indiana, and Pennsylvania have all used availability payments.

27. Throughout the Administration's plan, transportation infrastructure projects must compete equally with other critical infrastructure such as water and sewer, broadband, and in one new program, space. This, combined with the draconian cuts proposed in the Administration's budget to transportation infrastructure, will likely result in significant reductions in spending on transportation projects.

    a. Will you please describe the rationale behind diverting transportation funds in the budget to new programs that may not fund transportation? How will doing this lead to repair of crumbling transportation infrastructure?

    Answer: *The Administration's plan is in addition to existing funding programs, with the goal of comprehensively addressing the significant infrastructure needs of our country. With $200 billion of direct Federal spending leading to as much as $1.5 trillion in total investment, all infrastructure stands to benefit significantly.*

b. **Why and how will these new programs fund our transit and rail systems better than existing federal programs like TIGER, Amtrak, and New Starts/Small Starts?**

Answer: *Under the Infrastructure Initiative, transit projects will be able to compete with every other mode of transportation for project funding.*

The Federal Government provides approximately $12 billion annually in funding for transit systems, accounting for 25 percent of total public funding for transit and 42 percent of capital funding.

The Infrastructure Initiative is designed to provide additional tools and flexibility so that transit systems utilize performance-based, long-term investment plans, while leveraging Federal funds with sustainable local revenue sources. Passenger rail and transit projects will benefit from additional sustained local revenues.

28. **When you testified in front of our committee on May 17 of last year, you indicated that 16 agencies were participating in the President's infrastructure taskforce. At the hearing on March 1, you indicated that there are 12 agencies supporting the initiative.**

a. **Please list the 12 agencies currently supporting the Administration's infrastructure work and the 4 agencies that were supporting this work last year and are no longer participating.**

Answer: *As the Administration developed its Infrastructure Initiative over the past year, it worked with many federal agencies for input into ideas as to how to advance all infrastructure, like roads, bridges, and airports, as well as drinking and wastewater systems, waterways, water resources, energy, rural infrastructure, public lands, veterans hospitals, and Brownfield and Superfund sites, in a manner that will stimulate new investment, shorten the approval process, address rural infrastructure needs, empower State and local authorities, and train the American Workforce of the future. Those agencies most directly involved in infrastructure delivery are those that are on the Permitting Council created under the FAST Act and identified on the Permitting Dashboard.*

b. **Please indicate why these 4 agencies are no longer part of this effort.**

Answer: *As indicated above, the Administration developed its Infrastructure Initiative with input from many federal agencies involved in delivering infrastructure projects. No federal agencies have been eliminated from this process though those most directly involved in infrastructure delivery, including environmental review and permitting, have been more engaged as the process progressed.*

29. **My prayers are currently with everyone affected by the pedestrian bridge collapse at Florida International University.**

a. Will you please commit to provide information as it becomes available?
__Answer:__ Yes.

b. This project used an innovative process for construction, including new materials. What, if any additional safety review, did this project undergo prior to and during construction? What was the FHWA's role in reviewing the construction method and materials for this project? What was the state's role?

__Answer:__ I have asked the Department's Inspector General to examine whether the project owner and the design-build team and contractors responsible for the design, planning, construction, installation and testing of the pedestrian bridge complied with all specifications and requirements applicable to this project by virtue of the Department's provision of Federal funding.

Senator Capito:

30. Secretary Chao, Clean Water Act (CWA) Section 404 permits do not fall within the Department of Transportation's jurisdiction. However, I believe Section 404 policies are of concern to your Department as there have been cases of permits for federal road construction being effectively vetoed by the EPA's refusal to affirmatively approve or deny the permit application.
    a. Would the reforms called for in the President's infrastructure plan to end EPA's veto authority over CWA Section 404 permits ensure that these decisions are handled with due process and in an objective and timely manner?
    b. Would you agree that providing this certainty and efficiency is especially important now given that we can expect to see an increase in both the scale and number of new projects after the passage of an infrastructure package?

__Answer:__ Clean Water Act (CWA) Section 404 permits are of importance to this Department. The reforms in the Administration's Infrastructure Initiative continue to ensure environmental protections remain in place while improving the efficiency of the process. Due process and objectivity would exist. Additionally, by placing time limits on the Federal Government's completion of the review process, and including appropriate enforcement measures to ensure that timelines are being met, the reforms allow project sponsors to construct projects in a timely and cost-effective manner.

Senator Fischer:

31. Secretary Chao, the Incentives Program includes a look-back provision, allowing states that have increased revenues in the last three years to receive credit for new funding sources. In 2015, Nebraska approved a six-cent increase in the state gas tax, which will increase incrementally each year from 2016 to 2019. Under the president's proposal, would Nebraska receive credit toward the Incentives Program for each increase in the state gas tax over the four years, or only for the 2015 approval of the state gas tax increase?

Answer: *The proposal provides a look-back period to award applicants for actions that align with the goals of the Incentives program but that occurred prior to enactment of the program. As envisioned, the look-back period would be three years before the date of application to the program, and the determination would be made based on the implementation date (or take effect date) of the new revenue source. The proposal seeks to strike an appropriate balance between rewarding recent actions and incentivizing the creation of new revenue to address the Nation's infrastructure needs. The Department looks forward to working with the Congress on this issue.*

Senator Markey:

32. President Obama issued a directive that instructed the federal government to take climate impacts, such as sea level rise and extreme weather, into account when building or rebuilding infrastructure. This order was repealed by President Trump last year. Also last year, extreme weather disasters, including Hurricanes Harvey, Irma and Maria, caused more than $300 billion in damage nationwide. Making investments in climate resilient infrastructure now will be far less costly than making them in the future and will protect taxpayers. A report published by the Environmental Protection Agency (EPA) in 2017 found that by working now to protect roads from climate change-related impacts, we can cut costs by more than 75 percent over this century.

    a. Do you agree that rising sea levels and storm surge damaged our infrastructure over the past year?
    b. If yes, do you agree that anthropogenic climate change has contributed to rising sea levels and extreme weather that is becoming more frequent and more severe?
    c. Do you agree that it makes fiscal sense to spend taxpayer dollars on infrastructure projects that are designed to withstand the worsening future impacts of climate change, to avoid having to rebuild them over and over again?

    Answer: *Protecting our Nation's highway infrastructure is a Department priority, as is a fiscal responsibility. The Department is committed to increasing its effectiveness in ensuring that infrastructure is resilient and expects recipients of Federal funds to incorporate future operations and maintenance costs associated with a project's life-cycle into the planning and preparation of a project. The Department allows use of Emergency Relief (ER) funds for the repair and reconstruction to current design and construction standards, which are continuously updated to reflect improvements and efficiencies in design and construction practices, thereby improving highway infrastructure resilience and ensuring wise use of available of infrastructure funding.*

33. The Administration's infrastructure proposal would allow only one agency, the lead agency on a project, to conduct an environmental review, potentially excluding the EPA or other agencies that protect our environment and natural resources.

    a. Can you provide additional detail on how this one agency review process would work?

b. Would that mean that your Department would be solely reviewing some projects, potentially excluding the EPA from reviewing the impacts on our environment on projects on which it may have otherwise been involved?

Answer: *Executive Order (EO) 13807 establishes a One Federal Decision policy for the environmental review and permitting process for major infrastructure projects. One Federal Decision means that each major infrastructure project has one lead Federal agency which is responsible for navigating the project through the Federal environmental review and permitting process. It does not mean that other agencies are excluded from review. The Administration's Infrastructure Initiative builds on the EO with a One Agency, One Decision proposal. This proposal places a time limit on the Federal Government's completion of the review process. But again, it does not exclude agencies from review.*

34. According to a 2012 Congressional Research Service report, approximately 96 percent of projects approved by the Federal Highway Association involve no significant environmental impacts, and as a result, require limited assessment under the National Environmental Policy Act (NEPA).

a. Can you provided updated estimates on what percentage of projects under the purview of the Department of Transportation require NEPA documentation, analysis, or review?

Answer: *All Department projects require NEPA documentation, analysis, or review. While, as you suggest, most projects meet NEPA requirements through a Categorical Exclusion, they are not exempt from NEPA. Under NEPA, the level of review required depends on the potential significance of the environmental effects of the project.*

Senator Merkley:

35. Secretary Chao, in response to my question about how your overall budget can be considered an aggressive infrastructure plan if it actually constitutes a net loss to infrastructure funding, you stated that "if you look at 2017, it's actually not a cut. 2018 went up, and therefore that's how you consider it a cut."

a. My question was whether the Administration's infrastructure plan and budget constitutes a *net loss* for infrastructure programs over a ten-year period – not in reference to any single fiscal year. Please clarify your answer.

b. If the Administration does not view its infrastructure plan as a net loss to infrastructure over a ten-year period, can you please clarify how much the Trump Administration cut from current funding levels for each of the following programs in the FY19 budget request:

- TIGER grants

- Highway Trust Fund
- Capital Investment Grants
- Amtrak
- Army Corps of Engineers
- Community Development Block Grants
- HOME
- Public Housing Capital
- Economic Development Administration
- Aviation
- Rural Water & Wastewater Grants

Answer: *The President's Budget makes smart, strategic investments in infrastructure to improve our long-term competitiveness. The Budget also respects taxpayer dollars by reducing or eliminating programs that are either not working as intended, unnecessary, or lack a clear Federal nexus. With respect to transportation infrastructure programs, while the Budget proposes some reductions, the Budget does not propose any reductions to programs funded out of the Highway Trust Fund. Cuts that are cited over a 10-year period are particularly inflated by assumptions regarding spending for certain programs beyond currently authorized levels. For example, the Department projects the Highway Trust Fund will remain solvent through at least FY2020, and solvency issues beyond that dates must clearly be addressed.*

36. "Buy American, Hire American" was not mentioned in Administration's infrastructure plan for transportation and water projects, infrastructure grants, relocation of utilities, or requirements for airport improvement program, among others. During the hearing, you assured me that the Buy America was being implemented. Please give examples of how the Presidential Executive Order on Buy American and Hire American is being implemented by the Department of Transportation.

    a. On page 22, the infrastructure plan proposes: "Amending titles 23 and 49 to provide targeted flexibility pertaining to the application of Federal requirements where the project funding is primarily non-Federal..." Would this flexibility include waivers for Buy America and Davis-Bacon?

    b. Similarly, on page 24, your plan proposes "Amending this requirement for smaller projects that predominantly are outside the Federal-aid highway right-of-way would eliminate Federal procurement requirements for these infrastructure projects. This would allow States to use their own procedures to implement these projects."

    Which Federal procurement requirements would be eliminated? Would Buy America and Davis-Bacon be eliminated?

c. On page 29, for water infrastructure your plan proposes "Amending the law to provide targeted flexibility pertaining to the application of Federal requirements where the project funding is primarily non-Federal."

Would this flexibility include waivers for Buy America and Davis-Bacon?

Answer: *On April 18, 2017, the President signed Executive Order 13788, Buy American and Hire American, to ensure that Federal procurement and Federal assistance awards maximize the use of goods, products, and materials produced in the United States, including iron, steel, and manufactured goods. The Executive Order required all Federal agencies to assess the compliance with existing Buy American laws and to develop and propose policies to strengthen Buy America implementation and compliance.*

Pursuant to the Executive Order, DOT is working closely with its grantees and stakeholders to ensure that domestic content is maximized in all projects utilizing Federal assistance. DOT's modal administrations work with project sponsors to apply their statutory Buy America requirements. As part of this process, DOT's modal administrations help project sponsors to identify and locate potential domestic manufacturers for products and materials necessary to complete projects.

Both title 23 and title 49 provide a process for waiving Buy America requirements. In cases where a waiver of the Buy America requirements may be applicable, DOT solicits public comment through its website, and in some cases, a Federal Register notice on whether granting a waiver is appropriate.

DOT is committed to enforcing Buy America laws and ensuring that domestic content is maximized. Since this Administration took office, DOT has issued fewer Buy America waivers than it had in recent years.

Senator Moran:

37. Secretary Chao,

a. The Administration's Infrastructure plan makes an important investment in our country's infrastructure. A significant percentage of the investment in transportation is earmarked for new capacity and transformational projects. While new capacity is important, maintaining and preserving our current roads, though not exciting, is just as critical, particularly in large states like Kansas where our extensive road network is exposed to extreme weather and substantial agricultural traffic.

b. I understand that a dollar spent on pavement preservation for a road early in its useful life can save several magnitudes of that dollar ($8-$10) on rehabilitation, decrease the natural resources expended, all the while extending the life of the road in better condition for drivers.

c. **Will the Administration's plan incentivize funding for preserving our current roads and require funds expended for new construction to include ongoing preservation in order to ensure that the investments achieve their intended long term benefits?**

Answer:

The Administration's Legislative Outline for Rebuilding Infrastructure in America is an outline of principles and not legislative text. Infrastructure and the funding for infrastructure is a bipartisan issue and all options are on the table.

The Infrastructure Initiative is designed to change how infrastructure is designed, built, financed and maintained in communities across the country. The Department is committed to increasing its effectiveness in ensuring that recipients of Federal funds incorporate future operations and maintenance costs associated with a project's life-cycle into the planning and preparation of a project.

The Incentives program provides substantial new Federal funding for both new construction and preservation. The Incentives Program has an emphasis on incorporating the development and use of new and rapidly evolving infrastructure technology to improve cost and performance.

This Administration welcomes the opportunity to work with you on these issues of critical importance to our country's infrastructure

Senator Van Hollen:

38. **The President's infrastructure proposal calls for $200 billion in federal investment in our nation's infrastructure but does not specify where this funding is coming from.**

    Is this amount new federal dollars, or money that is being reallocated from other accounts within the federal government? If it is reallocated money, can you tell me what accounts will see reductions to account for the $200 billion total? If this is new funding, how does the Administration plan to raise the funds?

    Answer: *The Administration's plan is in addition to existing programs. We look forward to engaging with Congress on a bipartisan basis to identify pay-fors over the 10-year proposed period, in order to address the country's significant infrastructure needs.*

39. **The proposal assumes that a $200 billion federal investment over 10 years can generate an additional $1.3 Trillion in infrastructure investment.**

    How was the $1.3 trillion amount calculated? What assumptions were made to get to that amount?

    Answer: *$100 billion in Federal funds will go to the competitive Infrastructure Incentives Program grants that match up to 20 percent of new revenue generated by the applicant,* *that would lead to at least $500 billion and perhaps $800 billion in total investment. $50 billion will be available for capital investments that support projects in rural areas, including U.S. territories and Tribal communities, and $20 billion will provide competitive funding for transformative technologies and techniques. This $70 billion, with the Federal Government picking up between 30 and 100 percent of project costs, can leverage about $20 to $30 billion, so totals almost $100 billion. $14 billion will be used to expand the capacity of existing Federal infrastructure credit programs which have significant multipliers of the Federal investment. One of the credit programs, the Transportation Infrastructure Finance and Innovation Act program, has achieved a leverage ratio of 40-to-1. Assuming a slightly smaller ratio could add another $500 billion in total investment. Allocating $6 billion to broaden the use of private activity bonds can generate another $100 billion, bringing the total investment to well over $1 trillion. The final $10 billion will be used to establish a Federal Capital Financing Fund for the purchase of real property. These figures also ignore the millions of dollars we believe will be saved by our reforms to federal review and permitting, which increases the impact of our proposal even further.*

40. **During a recent meeting, The President was quoted by Senator Carper as stating that he supported increasing the federal gas tax. Quoting my Ranking Member, Senator Carper stated that, ""He said that he knew it was a difficult thing for legislators to support and said that he would support the leadership to do that and provide the political cover to do that."** The Chamber of Commerce even supports increasing the gas tax. **(See Politico Article and Chamber plan)**

    a. **Were you at that meeting on February 14, 2018 when the President expressed his support?**

    b. **Did the President express his support for an increase in the gas tax during that meeting?**

    c. **Do you support an increase in the federal gas tax?**

    d. **Do you support indexing the gas tax to inflation?**

    e. **What specific measures do you support to address the shortage in receipts to the Highway Trust Fund?**

Answer: *The Administration's Legislative Outline for Rebuilding Infrastructure in America is an outline of principles and not legislative text. Infrastructure and the funding for infrastructure are bipartisan issues and all options are on the table.*

This Administration welcomes the opportunity to work with you on these issues of critical importance to our country's infrastructure, so our economy can continue to grow and create good jobs for America's working families.

41. **Historically, the federal government has taken a leading role in building transportation infrastructure, including our national railroad, interstate highway and transit systems. The Administration's plan deviates from the federal government's normal role by relying on local government and the private sector to provide the majority of infrastructure investment. Last fall, it was reported that President Trump stated he no longer believes that Public Private Partnerships (P3's) will solve our infrastructure funding needs. (see Eno Article)**

   a. **Do you believe P3's can act as a substitute for real federal funding for infrastructure?**

      Answer: *The Administration is committed to encouraging delivery of transportation infrastructure via the most innovative and efficient means available across the country.*

      The Infrastructure Initiative includes the new $100 billion Incentives Program which will maximize investment and attract significant, new, non-Federal revenue streams dedicated to infrastructure investments.

      The Infrastructure Initiative will not force States to utilize P3s.

      We know and acknowledge that P3s provide additional optionality for delivering infrastructure projects, but the P3 approach is not a solution for all transportation infrastructure challenges.

      There is a broad spectrum of potential opportunities for private investment in infrastructure and it is important to recognize that there is not a one-size-fits-all approach.

      The Administration will continue to work with external stakeholders to balance the risks and opportunities in delivering P3 projects.

   b. **Are P3 projects a realistic funding sources in rural communities? If so, how?**

      Answer: *The Rural Infrastructure Program incentivizes states to partner with local and private investments for completion and operation of rural infrastructure projects. While we recognize that private investment won't always make sense for every type of project in every state, such partnerships can bring innovation and sustainable capital in a fast and affordable manner. In fact, earlier forms of P3s are the actual framework that built out rural infrastructure in prior centuries, including the intercontinental railroads throughout rural America, as well as rural electrification and rural telephone connections. That is why the Initiative includes a robust Federal funding program for infrastructure in rural areas.*

      One form of private investment, public-private partnerships, or P3s, are about much more than toll roads. They have also proven successful for projects that are *non-tolled or otherwise have insufficient or uncertain project-related revenue streams.*

Availability payments are a way to support non-tolled or tolled projects. Under this model, the private partner receives scheduled payments from the project sponsor over the period of the contract. Usually the payments are tied to completing construction milestones or for meeting operations and maintenance performance standards.

This type of arrangement can work just as well in rural areas as in urban areas. In recent years, rural P3 projects in Ohio, Indiana, and Pennsylvania have all used availability payments.

42. **Unfortunately, too many communities, especially in rural and urban areas, lack the tax base to generate adequate revenues to keep pace with the costs of maintaining and building schools. As a result, we have schools with leaky roofs, mold, failing heating and air conditioning systems, inadequate ventilation, lead in water pipes and wall paint, and asbestos in the ceiling and floor tiles. School facilities are not mentioned in the Administration's plan.**

    a. **Will the President support setting aside a portion of this critical investment to address the needs of our schools in the worst condition across the nation?**

    b. **Do you support setting aside a portion of this critical investment to address the needs of our schools in the worst condition across the nation?**

    c. **Do you or the President support funding to add additional layers of security to these same schools?**

    Answer: *Schools are not directly mentioned in the Administration's infrastructure proposal. However, the Administration certainly acknowledges the importance of our nation's school system and many of the proposal's asset classes can be applicable to schools, especially water utilities and broadband, both of which are necessary for modern educational facilities.*

43. **The Rural Infrastructure Plan is 25% of the total cost of the proposal ($50 million over 10 years). This program would allocate 80% of those funds to the states based on a "formula" and the other 20% would be reserved for rural performance grants within eligible asset classes and according to specified criteria.**

    What is the proposed formula for these grants?

    Answer: *The Administration is very focused on the unique infrastructure needs of rural America.*

The intention of the rural program is to provide needed resources to areas that are clearly rural in terms of proximity to urban areas and population density.

The President's Infrastructure Outline states that the statute would create a "rural formula," calculated based on rural lane miles and rural population adjusted to reflect policy objectives The intent of the formula is to reflect both where rural citizens live (population component) and where rural infrastructure exists that supports current economic activity (rural lane miles) Each State would receive no less than a specified statutory minimum and no more than a specified statutory maximum of the Rural Infrastructure Program formula funds, automatically.

In addition, funds made available to States under this program would be distributed as block grants to be used for infrastructure projects in rural areas with populations of less than 50,000.

44. There are 37,000 construction workers from El Salvador whose authorization to work will be ended in September 2019 as a result of losing their Temporary Protected Status (TPS). Another 14,000 construction workers from Honduras are at risk of losing their TPS when a decision is made about their designation in May.

    How will large infrastructure projects be impacted by the loss of construction workers who currently hold Temporary Protected Status?

    Answer: *The Temporary Protected Status (TPS) is a form of humanitarian relief which applies to certain nationals of particular countries who were present in the US during a designated period of time.*

    This program resides within the Department of Homeland Security and Secretary Kirstjen Nielsen and I look forward to working with Congress on this matter.

Senator Whitehouse:

Streamlining Provisions in Previous Highway Bills

45. President Trump's proposal would gut important reviews from environmental laws and would force a complete re-write of NEPA. MAP-21 and the FAST Act included a combined 40 different regulatory "streamlining provisions," some of which are still being implemented through rulemakings and guidance. The Inspector General at USDOT released a report finding that any regulatory changes would only slow the implementation of the provisions already passed. In the hearing you discussed two rulemakings related to streamlining that should be finished by the summer, but there are other guidance's and memoranda outstanding.

    Please provide a full list any outstanding rulemakings or other actions required by the "streamlining" provisions of MAP-21 and the FAST Act.

Answer: *As I stated at the hearing, we have completed all but two required FAST Act rulemakings, and those are in the process and are projected to be completed this summer. Those two exceptions are: (1) a rulemaking to reflect changes to the 23 U.S.C 139 environmental review process and apply the process to railroad projects (FAST Act Sections 1304 and 11503); and (2) a rulemaking to implement the NEPA Pilot that would allow States participating in the Surface Transportation Project Delivery Program to substitute State laws for NEPA and 23 U.S.C. 139 (FAST Act Section 1309). Please note that the OIG report you refer to is a snapshot in time and misleading. It is currently out of date, relies upon a list of proposed actions that has been modified, and ignores the fact that remaining provisions are in effect and being implemented concurrently with completion of the rulemakings.*

46. The FAST Act included a provision that created the Federal Permitting Improvement Steering Council, chaired by an Executive Director appointed by the President. The FAST Act also established new interagency procedures and transparency measures to improve the federal environmental review process.

    a. What is the status of this Steering Council?

    b. How many times has the Steering Council met since President Trump's inauguration?

    c. Was the Steering Council consulted in the development of the administration's infrastructure proposal?

    d. When will the President plan to appoint an Executive Director?

Answer: *The Federal Permitting Improvement Steering Council (FPISC) is fully active. We at the Department work closely with the FPISC Office of Executive Director in advancing the project delivery provisions of Title 41 of the FAST Act (FAST-41), and meet with FPISC on a regular basis through quarterly Council meetings, monthly (but currently weekly) Chief Environmental Review and Permitting Officer (CERPO) meetings, and weekly work group meetings. Our staff also communicate with staff from its Office of Executive Director often, and meet weekly on management and enhancement of the Permitting Dashboard. However, we cannot speak to the level of consultation that FPISC had in relation to the Administration's infrastructure proposal. Also, the Department is not involved in the selection or hiring of an Executive Director for the FPISC*

Federal Spending

47. President Trump's infrastructure plan proposes $200 billion in grants to encourage state, local, and private investment in infrastructure. However, it would also would cut over $240 billion from successful programs like TIGER and the Highway Trust Fund.

    a. Why does the President's infrastructure plan not include additional funding for successful programs like TIGER?

Answer: *Neither the President's Infrastructure Plan nor his Budget propose reductions to the authorizations of formula funds from the Highway Trust Fund.* ~~*The TIGER discretionary grant program substantially duplicates other surface transportation grant and loan programs, including highway and transit formula funds.*~~ *The Infrastructure proposal provides an additional $200 billion over the next ten years for increased Federal spending, including funding for merit-based transportation infrastructure projects, and will provide an important capability for the Department to address our nation's urgent transportation infrastructure needs at the state and local level.*

b. Did you, or will you, consider increasing the gas tax to fund infrastructure, as some Republicans in Congress have proposed?

Answer: *As I have stated before, it is all on the table for discussion.*

c. Is the President serious about a 25-cent increase in the gas tax, and if so, where does it fit into the infrastructure plan?

Answer: *As I have stated before, it is all on the table for discussion.*

d. The American Society of Civil Engineers estimates that we need an additional $2 trillion in infrastructure investments over the next 10 years to get our infrastructure back to a satisfactory level. How does a net federal funding cut of $40 billion, as proposed by the President, help fix America's backlog of infrastructure projects?

Answer: *Cuts that are cited over a 10-year period are particularly inflated by assumptions regarding spending for certain programs beyond currently authorized levels. For example, the Department and the 2019 Budget project the Highway Trust Fund will remain solvent through at least FY2020, and solvency issues beyond that date must clearly be addressed.*

Resiliency

48. My state's Coastal Resources Management Council is planning for nine feet of sea level rise along Rhode Island's coast by 2100. To prepare for this much water overtaking our shores, we need to protect evacuation routes from flooding, reinforce bridges that are exposed to corrosive saltwater and storms, and retrofit lowland wastewater treatment plants. These improvements are not cosmetic; they are essential if my state and others along the coasts have any chance meeting our needs over the next 50 or 100 years. If we want to invest significant federal money on infrastructure, we should make sure those investments will survive for a useful period of time and not be consumed or degraded by rising seas.

a. The President's infrastructure plan does not mention the terms "coastal," "sea level rise," "storm surge," or "saltwater intrusion" once. How does the administration plan to support the specific investments needed to fortify our coasts against the consequences of climate change?

b. Should existing programs like TIGER and FASTLANE put a higher priority on grants that help protect our coastal infrastructure from sea level rise?

c. Without the Federal Flood Risk Mitigation Standard in place, and with a proposal to undercut the NEPA process that requires federal agencies consider climate change, how does the administration propose designing and funding infrastructure projects that will survive projected future conditions, like higher seas and changes in precipitation?

Answer: *The Initiative is designed to change how infrastructure is designed, built, financed and maintained in communities across the country. The Initiative includes, but is not limited to, drinking and wastewater, which would include projects to increase the resiliency or adaptability of water systems.*

Senator BARRASSO. Thank you so very much for your testimony. Mr. James, please proceed.

STATEMENT OF HON. R. D. JAMES, ASSISTANT SECRETARY OF THE ARMY FOR CIVIL WORKS

Mr. JAMES. Good morning, Mr. Chairman, members of the Committee, and Ranking Member Carper.

I am honored to testify before you today on the Administration's recently released infrastructure plan and the water resources needs and challenges of our Nation. I look forward to working with you to advance the delivery of our Nation's water resources infrastructure through innovative approaches and streamlined processes.

The Army has played a significant role in the development of the Nation's water resources in the past. The Army maintains our Nation's coastal navigation channels, inland waterways, dams, navigation locks, flood control levees, and hydropower plants.

These projects help prevent flooding in our river valleys and along our coasts and facilitate the movement of approximately 2 billion tons of waterborne commerce. They also provide 24 percent of the Nation's hydropower.

Much of our Nation's infrastructure is aging, as you know, and requires significant amounts of resources to maintain. The traditional approach to constructing and maintaining these projects is not sustainable.

The Administration's infrastructure legislative principles released on February 12, 2018, provide a common sense approach to addressing these issues. The legislative principles directly applicable to the Civil Works mission fall within six general areas.

The first is water resource infrastructure. The Administration's principles would remove barriers and provide new authorities to expedite the delivery of infrastructure projects through a variety of mechanisms focused on revenue generation, streamlining project delivery, and innovative acquisition approaches.

The second area is inland waterways. For this area, the combination of new and existing revenue streams combined with non-Federal partnerships would enable greater efficiencies and innovations for our Nation's inland waterways.

The third area is associated with incentives in the form of grants to non-Federal entities. These are intended to encourage innovation, accelerate project delivery, and increase State, local, and private participation.

The fourth area pertains to the Water Infrastructure Finance and Innovation Act. This Act provides for incentives in the form of low cost loans, which are intended to encourage innovation, accelerate project delivery, and increase State, local, and private participation.

The fifth area involves environmental reviews and permitting. In addition to broad environmental and permitting reforms, the principles would further streamline the Civil Works Section 404, Section 10 of the Rivers and Harbors Act, and Section 408 programs to timely support decisions while maintaining the environmental protection provided by the law.

Finally, the last area applicable to Civil Works' responsibility is divestiture. The infrastructure legislative principles authorize Federal divestiture of assets that would be better managed by State, local, or private entities. The Administration's infrastructure proposal is an opportunity for the Army to apply new financing approaches and streamline the processes to meet current and future needs of the Nation.

I recognize the importance of streamlining environmental reviews with the goal of shortening timelines to an average of 2 years while still protecting the environment. In particular, I am looking to eliminate redundant and unnecessary reviews, concurrencies, and approvals.

In addition to the Administration's legislative proposal, I will look internally at the Civil Works organization's authorities, policies, regulations, and procedures to identify opportunities for increased efficiency and effectiveness. I want to stop focusing on the process and focus on the results.

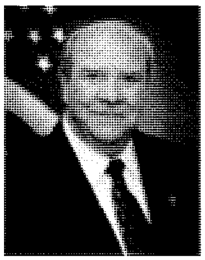
Simply put, the Army must ensure that we put the Federal funds we are entrusted with into the ground effectively and efficiently. To me, let's move the dirt is the goal.

In closing, the time has come for us to focus on outcomes as we rebuild America. The way we use our water resources significantly impacts the economic advantage afforded to us by our river systems. It will determine if we protect and restore the capital assets afforded healthy ecosystems, and it will determine how we protect life and property from the coast to coast threat of flooding.

I look forward to working with this Committee in the future to improve the ways that we can invest in our water resources.

Thank you, Mr. Chairman and members of the Committee. This concludes my statement. I look forward to taking any of your questions.

[The prepared statement of Mr. James follows:]



The Honorable R.D. James
Assistant Secretary of the Army Civil Works
Washington, D.C.

President Ronald Reagan appointed R. D. James as a Civil Engineer civilian member to the Mississippi River Commission in 1981. He was reappointed in 1991 by President George H.W. Bush, and in 2003 by President George W. Bush. He was reappointed for a fourth term in 2017 by President Barack Obama. While serving as a member of the Mississippi River Commission, Mr. James has toured and inspected civil works engineering features and engaged water resources stakeholders across the greater Mississippi Drainage Basin, which encompasses 31 states and more than 250 major river and tributaries, draining 41 percent of the United States. He developed superior expertise in inland navigation and flood-control development by fostering strong ties and in-depth understanding of conditions along every major tributary of the Mississippi River: the upper Mississippi River, the Ohio River, the Missouri River, The Arkansas River, the Illinois River, the Tennessee River and the Cumberland River. In 2009, Mr. James received the prestigious Bronze de Fleury medal for his significant contributions to Army engineering.

During the commission's inspection trips, Mr. James collaborated with the U.S. Army Corps of Engineers leadership at the district, division and national levels, to include Chiefs of Engineers and Assistant Secretaries of the Army for Civil Works, as well as numerous governors, U.S. Senators and Representatives, in each of those areas promoting improved flood control and navigation. His duties with the Mississippi River Commission also resulted in overseas missions to represent the United States in fact finding and engineering solutions with the Mekong River Commission. In this capacity, Mr. James travelled to Thailand, Laos, Vietnam and Cambodia.

Mr. James served as president of the Southern Cotton Ginners Association in 2009 and served on the Board of Directors and Executive Committee of the Southern Cotton Ginners Association 1993-2001, the Cotton Producers of Missouri 1999-2005 and the Board of Directors of U. S. Bank of Sikeston, Missouri 1981-1995, the Board of Directors of Osceola Products cottonseed oil mill 1984-1997. He also served the New Madrid County Board of Education 1981-1997, serving as president 1986-1997.

Mr. James received the Sikeston Area Chamber of Commerce 2007 Agri-Business Award and was the New Madrid County Outstanding Conservation Farmer in 1987. He received his degree in Civil Engineering from the University of Kentucky in 1971. While attending the University, he was employed with the Kentucky Department of Water Resources Engineering office 1970-1971.

He and his wife Virginia have two children, Albert C. Riley James 1972, and Virginia Elizabeth James 1977 (deceased 1996). Mr. James was born on January 29, 1948 in Fulton County Kentucky and was raised in Hickman, Kentucky.

DEPARTMENT OF THE ARMY

COMPLETE STATEMENT OF

THE HONORABLE R.D. JAMES
ASSISTANT SECRETARY OF THE ARMY FOR CIVIL WORKS

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE

ON

Rebuilding Infrastructure in America

March 1, 2018

Mr. Chairman and Members of the Committee:

I am honored to testify before you today on the President's recently released infrastructure plan and the water resources needs and challenges of our Nation. I was recently sworn in as the Assistant Secretary of the Army for Civil Works. I look forward to working with you to advance the delivery of our nation's water resources infrastructure through innovative approaches and streamlined processes.

The U.S. Army Corps of Engineers (Corps) has played a significant role in the development of the Nation's water resources. The Civil Works program of the Corps has three main missions: commercial navigation, flood and storm damage reduction, and aquatic ecosystem restoration. In this regard, the Corps works with our Nation's coastal ports to maintain their channels, operates and maintains the inland waterways, supports State and local flood risk management activities, works to restore significant aquatic ecosystems, and operates and maintains multipurpose dams, as well as the reservoirs behind them. There are about 250 million day-visits a year for recreation at Corps lands and reservoirs, making the Corps one of the top Federal recreation providers.

The infrastructure that the Corps maintains includes 13,000 miles of coastal navigation channels (including the channels of the Great Lakes), 12,000 miles of inland waterways, 715 dams, 241 locks at 195 navigation sites, 14,700 miles of levees, and hydropower plants at 75 locations with 353 generating units. These projects help provide risk reduction from flooding in our river valleys and along our coasts, facilitate the movement of approximately two billion tons of waterborne commerce, and provide up to 24 percent of the Nation's hydropower.

Much of this infrastructure was constructed in the first half of the twentieth century and today requires a significant amount of resources to maintain. The traditional Civil Works approach to constructing and maintaining these projects is not sustainable. The Corps estimates that it could take over 100 years for the Corps to construct all currently authorized Civil Works projects under the current approach.

One of the President's top priorities is to rebuild and modernize the Nation's infrastructure. The President has proposed a $200 billion Federal commitment to stimulate at least $1.5 trillion in new infrastructure investment. The goal is to secure long-term reforms on how infrastructure projects are regulated, funded, delivered, and maintained. By streamlining project delivery and removing barriers, we hope to incentivize and expedite the delivery of our Nation's infrastructure.

The President's infrastructure legislative principles were publicly released on February, 12, 2018. The legislative principles directly applicable to the Corps' Civil Works responsibilities fall within six general areas:

(1) Water Resources Infrastructure – These principles would remove barriers and provide new authorities to expedite the delivery of infrastructure projects through

a variety of mechanisms focused on revenue generation, streamlining project delivery, and innovative acquisition approaches.

(2) Inland Waterways – The combination of new and existing revenue streams combined with non-federal partnerships would enable greater efficiencies and innovations for our nation's inland waterways.

(3) Incentives – Incentives in the form of grants to non-federal entities are intended to encourage innovation, accelerate project delivery, and increase State, local, and private participation.

(4) Water Infrastructure Finance and Innovation Act (WIFIA) – Incentives in the form of low-cost loans are also intended to encourage innovation, accelerate project delivery, and increase State, local, and private participation. The legislative principles would expand the U.S. Environmental Protection Agency (EPA) authorization and budget authority to include non-Federal flood mitigation, navigation, and water supply projects.

(5) Environmental Reviews and Permitting – In addition to broad environmental and permitting reforms, the legislative principles would further streamline the Corps' Section 404/10 and Section 408 programs to support timely decisions while maintaining environmental protections provided by law.

(6) Divestiture - The infrastructure legislative principles authorize Federal divestiture of assets that would be better managed by State, local, or private entities. One of these assets is the Washington Aqueduct, which the Corps currently owns and operates.

The President's infrastructure proposal is an opportunity for the Corps to apply new financing approaches and streamline processes that enable needed change to meet current and future needs of the Nation. The current paradigm for investing in water resources development is not sustainable and can deter rather than enable local communities, states, and the private sector from making important investments on their own, even when they are the primary beneficiaries. The Administration's infrastructure proposal and other reforms in the Budget, such as reducing the Harbor Maintenance Tax, would facilitate local decision-making by those who know best what investments are needed and improve how we as a Nation invest in water resources.

Further, we recognize the importance of establishing a "one federal decision" structure for environmental reviews with the goal of shortening environmental timelines to two years on average while still protecting the environment. In particular, we appreciate the need to eliminate redundant and unnecessary reviews, concurrences and approvals, as well as the importance of firm deadlines to complete reviews and make decisions. As a member of the Federal Permitting Improvement Steering Council (Permitting Council), which carries out the statutory responsibilities identified in Title 41 of the Fixing America's Surface Transportation Act (FAST-41), the Corps has committed to work with fellow Council members in support of the goals of FAST-41 to improve the timeliness, predictability, and transparency of the Federal environmental review and authorization process for covered infrastructure projects. In addition, as a Council member, the Corps has committed to incorporate the objectives of FAST-41 and Executive Order (EO) 13807 "Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects" into their agency's directives, manuals, policies and plans, as applicable and to the extent practicable.

In addition to the President's legislative proposal, I strongly support efforts by the Corps to look internally at its organizations, authorities, policies, regulations and procedures to identify opportunities for increased efficiency and effectiveness.

For example, Section 14 of the Rivers and Harbors Act of 1899, as amended, and codified in 33 USC 408 (Section 408) provides that the Secretary of the Army may, upon the recommendation of the Chief of Engineers, grant permission to other entities for the permanent or temporary alteration or use of any Corps Civil Works project. The Budget includes significant funding to support Section 408 reviews. The Corps also has implemented the following improvements to the Section 408 review process: delegation of Section 408 decisions to the lowest level possible (resulting in more than 95% of Section 408 decisions being made at the Corps district level) and further clarifying when Section 408 permission is required, when Section 408 permission is not required, and when the requirements of Section 408 may be met by another Corps process and/or authority (resulting in the reduction of redundancies).

The time has come for us to focus on outcomes as we rebuild America. I look forward to working with this Committee and the Corps to improve the ways that we invest in our water resources, and ensure the Corps remains an elite engineering organization dedicated to collaborating with non-federal partners, by implementing the President's infrastructure plan.

Thank you, Mr. Chairman and Members of Committee. This concludes my statement. I look forward to answering any questions you or other Members of the Committee may have.

Senate Committee on Environment and Public Works
"The Administration's Framework for Rebuilding Infrastructure in America."
March 1, 2018
Questions for the Record for Assistant Secretary R.D. James

Ranking Member Carper:

1. One of the President's top priorities is rebuilding, repairing, and maintaining the nation's infrastructure. However, the vast majority of the projects that will improve our infrastructure, including the repair and replacement of existing water infrastructure, won't work as public-private partnerships because they do not have a dedicated revenue streams and overall cannot attract private investment. How does the infrastructure plan address the projects that are your top priority?

Answer: The Budget funds the priority work of the civil works program. Much of this work involves our existing projects. The Budget gives priority to maintaining the key features of the infrastructure that the Corps owns and operates, such as on the inland waterways. It invests in dam safety, in the channels of our major ports, to help communities reduce their flood risks, and to restore significant aquatic ecosystems.

The goal of the President's infrastructure plan is to secure long-term reforms on how infrastructure projects are regulated, funded, delivered, and maintained. By streamlining project delivery and removing barriers, we hope to incentivize and expedite the delivery of our Nation's infrastructure, for a wide range of projects, including investments in water resources.

2. The Civil Works Investigations appropriation account funds studies of future projects. It is the lifeblood for new Corps civil works projects. The President's budget proposal moved dredge material management plans and dam safety manuals, traditionally paid out of other appropriation accounts, into the investigations account. Not only does this move take up budget ceiling space for new studies, which are the first step of future Corps projects, but it potentially adds time and process without any benefit. If we cut back on investigations it seems we are essentially ending the construction of needed economic development, flood protection, ecosystem restoration and navigation projects. This is concerning for our country's long-term economic viability. In your opinion, isn't it a problem to flood the investigations account with non-relevant expenses and irresponsible for the Administration to not support any new starts?

Answer: The intent behind moving Dam Safety Modification Studies and Dredged Material Management Plans from the Construction and Operation and Maintenance accounts, respectively, into the Investigations account in the FY 2019 Budget was to improve transparency and accountability of Corps investigations and present a more holistic presentation in the Budget of the Corps' overall study efforts. The Corps undertakes a dam safety modification study to evaluate options for constructing a modification to an existing Corps dam to address a safety concern. These studies are similar to most of the other studies funded in the Investigations account, in which the Corps is evaluating options for constructing a modification to an existing Federal or non-Federal water resources project. Dredged Material Management Plans are planning documents that ensure maintenance-dredging activities are performed in an environmentally acceptable manner, use sound engineering techniques, and are economically warranted. These plans address a full range of placement alternatives thereby ensuring that sufficient placement capacity is identified for the next 20 years.

The proposal did not, and should not, have any impact on the level of funding provided for other civil works program work. There was no reduction of the amount of funding made available for other feasibility studies or for preconstruction, engineering and design work. The decision to fund an activity is independent of the account. In other words, the activities competed for funding and were chosen for inclusion in the Budget regardless of the source of the funding. When activities were migrated from the Operation and Maintenance or Construction account to the Investigations account, the funding was moved along with the activity.

These kinds of investigations are not subject to the limitations on new starts. The proposal to move their funding to the Investigations account did not have any bearing on the decision not to fund studies that would be a "new start" if funded.

3. Poplar Island, located in the mid--Chesapeake Bay, has become a national model for environmental restoration. At this site they are using an innovative solution for dredged material management is resulting in the restoration of a once vanishing island, creating habitat for the Bay's diverse wildlife and bird species, and a safe harbor for the Bay's fish and shellfish resources. Poplar Island was authorized initially as an ecosystem restoration project, but under the FY19 President's Budget proposal the project will be paid for out of civil works navigation appropriation account. We are told this switch could potentially have the impact of killing the project since the Navigation business line focuses on the least costly alternative for the disposal of dredge material, and placement of dredge material on Poplar Island is more expensive than open bay disposal. How are you going to ensure that this project – authorized by Congress – is treated the way Congress intended under the Ecosystem restoration account when it will be managed by navigation?

Answer: The reclassification of the Poplar Island project as under the navigation business line in the FY 2019 Budget reflects the underlying purpose of this project, which is to provide a way to dispose of the materials dredged from the channels of the Port of Baltimore and increases transparency for the American taxpayer. While there are aquatic ecosystem restoration benefits derived from this project, the Poplar Island Project serves as the primary dredged material disposal site for the Port of Baltimore, and is funded with discretionary appropriations from the Harbor Maintenance Trust Fund. This change in classification more accurately presents the total funding request for the Corps – both for the commercial navigation program and for the aquatic ecosystem program. The Budget does not propose any change in the cost share or management of the project, and the Corps will continue to implement it in accordance with the project authorization.

Senator Boozman

4. Section 214 of the Water Resources Development Act provides that the Secretary of the Army, after public notice, may accept and expend funds contributed by a non-federal public entity, public-utility to expedite the permit review process. In 2016, Congress expanded this authority to railroad carriers, however, before this expanded authority can be used, the Corps of Engineers must issue guidance. More than a year has passed since Congress expanded section 214 to railroad projects and we are still waiting for the Corps of Engineers to issue new guidance. Please provide an update on the expected date for issuing the guidance and delegation of authority memorandum.

Answer: Implementation Guidance for section 1125 of the Water Resources Development Act of 2016, which added railroad carriers to the Section 214 authority, was signed on January 19, 2018. The delegation of authority memorandum is under development.

Senator Capito:

5. Assistant Secretary James, as the President outlined in his infrastructure plan, greater efficiency is needed in the permitting process. This is particularly true for Clean Water Act (CWA) regulatory reviews, some of which can pose major obstacles for infrastructure projects. The proposal calls for ending the EPA's veto authority over Section 404 permits and clarifying that the USACE has sole authority for making final jurisdictional determinations.

    a. If Congress implements these reforms, would this eliminate future uncertainty resulting from CWA Section 404 permits being preemptively or retroactively vetoed?

Answer: Yes.

    b. Would it also allow for the continued environmental protections provided by the Section 404(b)(1) guidelines and 401 water quality certification processes?

Answer: The removal of section 404(c) would not affect the requirement to comply with the Section 404(b)(1) Guidelines or affect the section 401 water quality certification process.

Senator Inhofe:

6. How many authorized water projects for which the USACE is the project lead have required a Sec. 401 water quality certificate over the past 5 years?

Answer: The Corps has obtained Section 401 certifications for 783 projects in the last five calendar years (2013-2017).

7. How many Sec 401 water quality certificates required more than one year for completion from the filing date of the initial application? Please provide a list of all projects for which the certification took more than one year.

Answer: Nine, listed below

- Walton County, Florida
- Port Everglades Navigation Deepening Project, Broward County, Florida
- American River Watershed, Common Features Project, Natomas Basin Sacramento and Sutter Counties, California
- Sutter Basin, Sacramento, California
- NV Truckee Meadows Flood Control Project, Nevada
- American River Common Features, Sacramento, California
- West Sacramento Flood Control Project, West Sacramento, California
- San Diego County
- Los Angeles River Ecosystem Restoration Project, Los Angeles, California

8. Have any authorized water projects for which the USACE is the project lead been denied a Sec. 401 water quality certificate over the past 5 years? Please provide a list of all of these projects.

Answer: The State of Florida denied issuance of a Section 401 water quality certification for one project, Wares Creek Dredging Project, Florida. There are other projects for which the state agency initially denied, but ultimately issued a Section 401 certification.

9. Have any authorized water projects for which the USACE is the project lead refiled a Sec. 401 water quality certificate after an initial filing? If so, please provide a list of all of these projects and the date of the initial filing and all subsequent filings.

Answer: The Corps refiled an application for a Section 401 water quality certification on two projects:

- South Florida Ecosystem Restoration, Biscayne Bay Coastal Wetlands, FL
  - Initial filing 3-Aug-16; refiled 8-Jan-18
- South Florida Ecosystem Restoration, Broward County Water Preserve, FL
  - Initial filing 3-Aug-16; refiled 19-Jan-17

10. Have CWA sec 401 permit delays resulted in any projects exceeding their sec 902 limits over the past 10 years? If so please provide a list of those projects.

Answer: No

Senator Van Hollen:

11. The Mid-Chesapeake Bay Island Supplemental Chief's Report, the original Chief's Report and the Baltimore Harbor and Channels DMMP are in your office for review.

Please provide your insights on any issues with this project that would prevent it from moving into the design phase (PED – pre-construction engineering and design).

Answer: The Mid-Chesapeake Bay Island project will be considered for future funding along with other programs, projects and activities competing for available resources across the Nation. The Corps uses performance metrics in allocating its funds. Thus, we would consider funding for this project, along with all other Corps programs, projects, and activities across the Nation.

a. Will you support a new investment decision to budget for design (PED) for Mid-Bay in fiscal year 2020?

Answer: The Corps uses performance metrics in allocating its funds. We consider all of the potential work in the civil works program for funding. Thus, we would consider funding for this project, along with all other Corps programs, projects, and activities across the Nation.

b. Would you support extending the authorization for Mid-Bay given that PED is not likely to start in time to make an obligation for construction prior to its automatic deauthorization in June of 2021?

Answer: In accordance with Section 1001 of the Water Resources Development Act of 1986, as amended, the Secretary is required to provide an annual list of authorized water resources development projects which "have received no obligations during the 5 full fiscal years preceding the transmittal of such list." Congress is the only entity with the power to remove a project from the deauthorization list.

12. The President's FY19 Budget submission includes funding for Poplar Island but has it budgeted under the Navigation Business Line rather than the Environmental Business Line – as it has been in the past.

a. Who made the change?

Answer: This proposal is part of the Budget. It is a technical proposal, meant to improve the way that we track our overall budget authority, obligations, and expenditures in the civil works program.

b. What is the intent of the change?

Answer: The budget reclassification increased transparency for the American taxpayer. This project was previously classified as aquatic ecosystem restoration (AER), and while there are AER benefits derived from this project, the Poplar Island Project serves as the primary dredged material disposal site for the Port of Baltimore, and is funded with discretionary appropriations from the Harbor Maintenance Trust Fund. This change in classification more accurately presents the total funding request for the Corps commercial navigation program.

13. Projects with navigation as a purpose have benefit to cost ratios, but projects with environmental restoration as a project purpose do not have benefit to cost ratios.

    a. What impact, if any, will this business line reclassification have on the ability of Poplar Island to compete for funds with navigation dredging projects?

Answer: None.

14. The President's budget for FY19 for Poplar Island is $21M, this is $41M less than needed to complete the last dike enclosure contract for the expansion, why was the funding for this last contract omitted from the budget?

Answer: The immediate need in FY 2019 was to fund inflow of dredged material for wetlands and island cell development.

15. In your prepared testimony you address the Harbor Maintenance Tax (HMT), and state that reducing the tax, "would facilitate local decision-making by those who know best what investments are needed and improve how we as a Nation invest in water resources." Two months ago in a hearing held by this Committee, I had a dialogue with your predecessor, Mr. Ryan Fisher, wherein he affirmed that the administration would support an effort to make sure that more of the HMT funds that were raised actually go for that purpose.

    a. In light of that conversation, why is it that the Administration is now proposing to reduce the tax when the Port community has been consistent in their message that they need to receive more of the HMT that is currently being collected, not

Answer: The Administration's intent is to better align annual receipts with recent appropriations levels. The reduced tax rate may also make the United States more competitive in a global marketplace and reduce the costs of goods to consumers.

    b. Can you explain to me how taking resources away facilitates local decision making?

Answer: Resources are not being taken away. With a lower tax rate, ports are free to assume the difference in fees at their facilities, which could be used to generate funding for self-directed investment.

16. In November 2016 following the election, the American Association of Port Authorities provided recommendations to the Trump transition team regarding the HMT. They stated that a priority should be to, "Modernize and fully maintain federal navigation channels by: making harbor maintenance tax (HMT) spending a priority; continuing the goal toward full use of the HMT; ensuring equity and fairness of HMT distributions; increasing funding for HMT maintenance spending in the FY2018 budget request, including funding for Donor and Energy Transfer Ports; devising a permanent solution as part of tax reform or other legislation for ensuring all annual HMT revenues are spent;"

a. Did anyone in the Administration consult with the Port community regarding this proposal?

Answer: The Corps meets regularly with our project sponsors, including the ports, and considered available data in making this proposal.

Senator Whitehouse

17. The Corps' FY19 proposed budget requests $1.481 billion for its Flood and Coastal Storm Damage Reduction program. Of that, only $40 million is marked for coastal projects. The remaining $1.451 billion is marked for inland projects. This 37:1 funding discrepancy is even worse than the FY18 budget proposal. I brought up this issue with you during your confirmation process and was disappointed to not see any improvement in the FY19 proposed budget. How will the Corps rectify this discrepancy between coastal and inland projects under the Corps' flood and coastal storm damage reduction work?

Answer: The civil works program has three main missions – commercial navigation, flood and storm damage reduction, and aquatic ecosystem restoration. The Corps uses performance metrics in allocating its funds. Within flood and storm damage reduction, the Corps also gives priority to the safety of its dams, to maintaining the key features of the other infrastructure that it owns and operates, and to projects that address a significant risk to public safety. Generally, these factors account for most of the funding in the Budget for this program.

18. The Corps is barely mentioned in the President's infrastructure plan. What role do you see the Corps playing in the future of America's infrastructure?

Answer: The Administration's Infrastructure Initiative seeks to modernize the Nation's infrastructure by reforming how infrastructure projects are regulated, funded, delivered and maintained. The traditional Civil Works approach to constructing and maintaining water resources infrastructure projects is not sustainable. Under the Infrastructure Initiative, for example, the Corps would work with EPA to ensure that resident Corps expertise was utilized in EPA's administration of an expanded EPA WIFIA program to include flood mitigation, navigation, and water supply. Elsewhere, the Corps is looking to modify internal processes that will increase the leveraging of constrained Federal funds and streamline delivery to meet current and future water resources challenges. The Corps is also seeking to better utilize WRDA 2014 Section 1043, as amended, which authorizes the Corps to transfer funds to the non-federal sponsor of a project and to allow them to construct the project. These new tools would better enable States and local entities to address their priorities.

19. Extreme weather events put infrastructure at risk. In Rhode Island, Superstorm Sandy almost caused Narragansett Bay to breach the water supply for the City of Newport. The March 2010 storms flooded the Pawtuxet River, overtopping the Warwick Wastewater Treatment facility and sending untreated wastewater into surrounding neighborhoods, the neighboring river, and eventually Narragansett Bay. What do you see as the Army Corps' role in helping cities and towns respond to these increasingly frequent extreme weather events and ensure the safety of the nation's critical infrastructure?

Answer: In 2013, the Corps released a report on "Coastal Risk Reduction and Resilience." The report describes a range of approaches to develop solutions that will reduce flood risks in coastal areas, including natural or nature-based features (e.g., wetlands and dunes), nonstructural measures (e.g., policies, building codes, and emergency response such as early warning systems and evacuation plans), and structural measures (e.g., seawalls and breakwaters).

In addition, for all of its projects, including those along the coast, the Corps considers ways to use engineering to help reduce vulnerabilities (such as the risk of project or component failure) and considers the dependencies among project features (their impacts on each other) over both the short- and long-term life of the project.

20. My state's Coastal Resources Management Council is planning for nine feet of sea level rise along Rhode Island's coast by 2100. To prepare for this much water overtaking our shores, we need to protect evacuation routes from flooding, reinforce bridges that are exposed to corrosive saltwater and storms, and retrofit lowland wastewater treatment plants. These improvements are not cosmetic; they are essential if my state and others along the coasts have any chance meeting our needs over the next 50 or 100 years. If we want to invest significant federal money on infrastructure, we should make sure those investments will survive for a useful period of time and not be consumed or degraded by rising seas.

    The President's infrastructure plan does not mention the terms "coastal," "sea level rise," "storm surge," or "saltwater intrusion" once. How does the administration plan to support the specific investments needed to fortify our coasts against the consequences of climate change?

Answer: The Corps has developed and implemented guidance and supporting methods and tools to address the risks associated with changing conditions such as extreme weather. We use them in the technical assistance that we offer communities to help them reduce their flood risks. They also inform how we plan, engineer, operate, and maintain our projects.

The goal of the President's infrastructure plan is to secure long-term reforms on how infrastructure projects are regulated, funded, delivered, and maintained. By streamlining project delivery and removing barriers, we hope to incentivize and expedite the delivery of our Nation's infrastructure, for a wide range of projects, including investments in water resources.

In addition to our established Civil Works process to evaluate and address the nation's water resources infrastructure needs, the Administration's Infrastructure Plan recommends innovative ways to leverage various forms of financing. Opportunities to include grants are an area under consideration as a possible means of leveraging constrained and critical Federal funds with non-Federal funding to meet the current and future coastal and inland water resources challenges head on.

21. Without the Federal Flood Risk Mitigation Standard in place, and with a proposal to undercut the NEPA process that requires federal agencies consider climate change, how

does the administration propose designing and funding infrastructure projects that will survive projected future conditions, like higher seas and changes in precipitation?

Answer: In evaluating options and formulating its project proposals, the Corps considers how such conditions may change in the future. Under our policy and technical guidance, we evaluate and consider the effects of a range of possible changes in sea levels and related total water levels (e.g., tide, surge, waves) throughout the project life cycle.

22. Under your leadership, even if the President refuses to accept the realities of climate change, will the Army Corps take a more forward thinking approach to project designs that will take into consideration future conditions instead of just the current conditions?

Answer: Corps policy requires that engineering decisions for major infrastructure be based on long-term performance, reliability, and durability over a 100-year life cycle. Consideration of future conditions is a standard part of the Corps planning process.

23. With structures like the Fox Point Hurricane Barrier and Point Judith Harbor of Refuge in Rhode Island, the Corps has focused on the functionality of these structures under current conditions instead of long-term durability. However, future sea level rise and strong storms will likely overpower these and other Corps structures along the coast.

    Given the long lag time in identifying a new project to its completion, do you agree the Corps should be thinking now about the improvements and new structures that will be needed?

Answer: Recognizing the particular challenges faced by coastal projects, in 2013, the Corps completed screening level assessments using a web-based tool that interfaces with Corps geospatial databases as well as authoritative data and information developed by other agencies, including the Federal Emergency Management Agency (FEMA), National Oceanic and Atmospheric Administration (NOAA) and the US Geological Survey (USGS). About 500 projects constructed, owned, and operated by the Corps nationwide were identified as being vulnerable to changing sea levels.

24. If so, how could this forward-thinking mentality be incorporated into the Corps' cost-benefit analysis it uses to prioritize projects?

Answer: In evaluating options and formulating its project proposals, the Corps considers how conditions may change in the future. The cost-benefit analyses that we perform generally reflect consideration of a range of such potential future changes.

Our vulnerability assessment processes addresses a related, but different concern. It is helping us identify existing projects that may require adaptive measures now or in the future due to such changes, and to identify ways to establish priorities among these potential investments.

Senator Wicker:

25. The Administration's goal of streamlining National Environmental Policy Act's regulations at multiple agencies to achieve NEPA compliance will help eliminate many of the unnecessary problems with the approval process. However, multiple agencies still have conflicting regulations and differing policies regarding requirements for approval on a project which negatively affect the timeliness, predictability and transparency of the process. For example, I have a major flood control project in Mississippi's capitol region that has been under discussion for the past 30 years and we are approaching the end of a long approval process with the Corps of Engineers and other federal agencies.

    a. As it relates to large infrastructure projects, such as the aforementioned flood control project, how can the Corps take a more active leadership role in streamlining decision-making and uniform application of requirements among all of the federal agencies involved in meeting NEPA requirements?

Answer: The Corps Civil Works program has been working since 2012 to streamline its internal planning processes for water resources projects, such as by establishing time and cost limits for most studies. The Corps also is working to streamline its processes by working with other federal agencies. For example, the Corps is working with the Environmental Protection Agency, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and other Federal agencies to identify ways to improve Federal regulatory processes under Executive Order 13807 (Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects).

    b. If a Feasibility Study/Environmental Impact Study is performed on a project that incorporates an existing federal flood control project can the need for a Section 408 Permit be explicitly eliminated?

Answer: Where a non-Federal entity is seeking approval to construct a non-Federal project or a non-Federal modification that would affect an authorized Corps project, Section 408 applies. In such cases, the non-Federal entity can use any documentation developed by the Corps (e.g., through its project planning process or its regulatory program) to support the Section 408 request.

    c. Can the Corps of Engineers, U.S. Fish and Wildlife Service and the Environmental Protection Agency create a single document with all of the requirements for compliance with NEPA so that there aren't different standards and requirements between agencies?

Answer: Corps Civil Works is working as part of the Federal Permitting Improvement Steering Council to implement the "One Federal Decision" goal of completing all necessary NEPA and other necessary environmental compliance actions in approximately 2 years. The Corps internal streamlining efforts discussed in response to Question 25a, are consistent with the One Federal Decision approach of the EO, and share many of the same goals with regard to early coordination, establishment of schedules and timeliness of decisions.

26. One area not directly addressed in the Administration's proposal is the conflict between two different standards used by the Corps of Engineers and the OMB to determine a favorable Cost-Benefit Ratio. The Corps has considered a project to have a favorable Cost-Benefit Ratio at one level while OMB utilizes a different interest rate resulting in a much higher threshold.

    a. Can the Corps commit to fully supporting a project based upon its Cost-Benefit Ratio?

Answer: Section 80 of WRDA 1974 requires the Corps of Engineers to use a certain discount rate, which fluctuates annually, when it evaluates and formulates a proposed water resources project. This discount rate is 2.75% for FY 2018. In developing the Budget, the Corps uses a 7.0% discount rate for the construction of commercial navigation projects, and for the construction of some of the projects in the Corps flood and storm damage reduction program. The 7% discount rate, based on OMB Circular A-94, is appropriate for evaluating competing investments, both within the civil works program and across federal agencies. The Corps uses other metrics as well in the Budget, such as for projects funded to address a significant risk to public safety, and for projects that primarily provide aquatic ecosystem restoration benefits.

Senator BARRASSO. Thank you very much to both of you. We appreciate you being here today.

Many of the members of the Committee are here looking forward to asking questions. Before we do that, we have two pieces of housekeeping.

One is, in order to assist Chairman McCain in his absence, Senator Inhofe is going to be chairing the Senate Armed Services Committee hearing today. I ask permission of my Republican counterparts that as he arrives, he be allowed to be recognized for questions at that time.

The second is that we have a series of three roll call votes beginning at 11:45 a.m. It is my intention to complete our hearing by noon in order for all of us to fully participate in the voting on the floor.

With that, Madam Secretary, thank you again for being here.

Earlier this year Congress passed a budget that designated an extra $10 billion a year for infrastructure. As the head of the governmental department that spends the most Federal dollars on infrastructure, would you agree, Madam Secretary, that an extra $10 billion per year would make a substantial difference to States, including Wyoming, Delaware, and others, and is a good start in our efforts?

Ms. CHAO. There is approximately $4 trillion in infrastructure needs in this country, so every dollar counts. Thank you.

Senator BARRASSO. I am showing you a chart, Madam Secretary. As you can see from the chart, on average, highway projects take the longest time to complete the environmental impact statements, longer than rail, longer than public transit, longer than electricity transmission. It is the highway projects, on average, that run 6 and a half years.

Do you agree that streamlining is critical in terms of speeding up the needed investment in our Nation's highways?

Ms. CHAO. Absolutely. There are many private pension funds that are very interested in investing in public infrastructure. Yet, in a number of States, the private sector is disallowed from participating in the financing of public infrastructure. That is one issue.

Two, while I see a great deal of enthusiasm from the private sector, pension funds, and others to participate, one of the hurdles they face is the lack of ready projects to be financed. If the permitting process can be speeded up and also from a common sense, less bureaucratic way of doing things, they can be streamlined, and it will actually make more projects available for the private sector to invest.

Senator BARRASSO. Mr. James, the Committee has already held two hearings this year related to enacting the Water Resources Development Act legislation. In light of those hearings, it is clear that the Corps needs to have the right tools and flexibilities to carry out water infrastructure projects.

If implemented, how would the Administration's infrastructure framework ensure the Corps has the proper means at its disposal for important water infrastructure projects? I can think of one in Wyoming, the Jackson Hole ecosystem restoration. How do we make sure those are delivered efficiently, effectively, and at the lowest cost for the American taxpayer?

Mr. JAMES. Mr. Chairman, you just discussed with the Secretary the situation I feel has held up our way of doing business in the Corps for a long time. That is the fact of multiple agencies overseeing the environmental impact statements as we go through developing those.

Under President Trump's plan, there would be one agency in charge of that, one decision, one agency, and the agencies will work together with the understanding that they do not have 6 years to complete an environmental impact statement.

As far as the other things the Corps does, part of it is planning, designing, engineering, and finally getting to contracts and construction. We are trying. The Corps has already internally made great steps and strides toward improving their process.

I am working with General Semonite and his key staff. We will further dig into that and try our best to address it so that those processes do not take as long, and what money we are afforded can then be put in the ground rather than in the process.

Senator BARRASSO. We appreciate General Semonite being here.

You have testified a number of times before the Committee. Thank you for being here with us today to join in the discussion.

Mr. James, current authorities allow the Corps to receive funding from other entities such as natural gas companies and railroads to augment existing regulatory resources. It is done so that permit evaluations can be expedited under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act.

What benefits or drawbacks do you foresee if this authority were to be expanded to allow the Corps to receive funding from any non-Federal entity to augment existing regulatory resources?

Mr. JAMES. Sir, I would like for you to give me the opportunity to let my staff get back with you immediately on that. I have thoughts, but I do not want to give you the wrong information on that, if you will, sir.

Senator BARRASSO. I would also ask that they look into if there are any additional considerations that would help the Committee understand what additional authorities would help the Corps further expedite the processing of evaluating the regulatory permits.

Mr. JAMES. Absolutely. We will work on that and get back to you. I appreciate that.

Senator BARRASSO. Thank you very much.

Senator Carper.

Senator CARPER. Secretary, you have only been on the job for a short while, and you have shown great wisdom in your response to that last question. When you do not know the answer, say so. Tell us you will get back to us, and make sure you do. That would be great.

Secretary Chao, I mentioned in my opening statement that the folks at the University of Pennsylvania's Wharton School of Business—including an economist who I think was a former Bush Treasury official—evaluated the Administration's claim that $200 billion in spending will somehow produce $1.5 trillion overall.

The folks at the Wharton School of Business stated that the Administration is off by 98 percent. In other words, for every $100 it has claimed, the amount of money being generated, funds being generated from this proposed spending, 98 percent of that will never materialize. Other experts, including the Heritage Foundation, of all people, have looked at Wharton's report and say it is spot on, which kind of surprised me.

Let me give you a chance to respond to these experts and briefly walk us through how we take $200 billion and turn it in to $1.5 trillion even though States tell us they are cash strapped, and we know the vast majority of projects to repair or replace infrastructure will not attract private investment. Explain how that works.

Ms. CHAO. Obviously, we disagree with both the Heritage Foundation and the Wharton Institute. It actually takes people with real life business experience to know how it works.

We see it in the TIFIA loans, with the Build America Bureau, and also with the RRIF loans. We give $1 that leverages $14, basically in credit, and of the $14, there is 40 times leveraging overall investment spending. We see it every day in the Build America Bureau.

Senator CARPER. I am not from Missouri, but on this one, you are going to have to show me.

Madam Secretary, the department elite has a key role in negotiating a win-win situation outcome on fuel economy and greenhouse gas tailpipe standards with California. I have been concerned that no real negotiations with California have occurred to date.

I am also concerned about press reports that the Administration may choose to weaken the standards far more than any automaker has asked for. I have asked them all. I have asked Detroit, I have asked 10 of them, what do you need in terms of standards. They said not as much as the Administration apparently thinks we are asking for. We are not.

We need a win-win situation here. This is ripe for a win-win situation. I want to ask your commitment to do two things. I do not think they are too difficult things to do.

As the process moves forward, let me ask you to commit to do two things. One, I have heard that the Transportation Department and EPA staffs are not working together as well as they can and should in this regard.

I just want to ask if you will direct your political and career staff to answer all of EPA's questions about the Transportation Department's model and analysis quickly and completely. That is my ask.

Ms. CHAO. I would be more than glad to answer transportation questions. As for what happens at the EPA, I will talk with the Administrator, but it is up to him.

Senator CARPER. I want to make clear I am asking you to direct your political and career staff to answer all EPA's questions about the Transportation Department's model quickly and completely. That is what I am asking.

Ms. CHAO. I will do what I can, but I do not understand that question. If it is another jurisdiction, I cannot make them answer that.

Senator CARPER. We are asking your department to answer the questions asked by another part of the Administration, EPA.

Ms. CHAO. Right, and I cannot do that. They have to answer their own questions.

Let me also disabuse you of the idea that we are not working together on this, because we have been. In fact, we have held almost daily meetings at the White House with EPA and the Department of Transportation on this issue, and California.

In fact, I have had the Acting NHTSA Administrator, Heidi King, fly out to California several times in an effort on our part to try to come together and understand and work together with California. From our point of view, I feel quite confident that we have really tried.

Senator CARPER. Madam Secretary, I am going to ask you to hold it right there, because what I have repeatedly heard from EPA, from within the Department of Transportation, and from the folks in California, the CRRV, that there are no active negotiations underway, that the give and take you are telling us about is not occurring. Let us have an off-line conversation about that.

What I have heard is deeply concerning, and I want to make sure you are hearing the same thing I am hearing.

Ms. CHAO. If that is happening, I want to know about it, so thank you for bringing that up.

Senator CARPER. We are talking about permitting reform. We have done a lot. We need to do more. My hope is we will have an oversight hearing that actually looks back to 2012 legislation, what we asked for and what has been done and one that looks at 2015 legislation, what has been asked for and what has been done.

I will ask three questions for the record. Why has the Administration failed to appoint an executive director to the Federal Permitting Improvement Steering Council? You have had several years to do that.

Why has the department not finalized all the MAP–21 and FAST Act streamlining rules? In some cases, you have had 3 years. In other cases, you have had 5 or 6 years to do that.

Why has the Administration proposed to cut the budget for permitting agencies, including the DOT's Infrastructure and Permitting Improvement Center?

Those are legitimate questions. We do not have time to respond to those today, but those are good questions and need to be answered.

Thank you very much.

Senator BARRASSO. Thank you, Senator Carper.

I would like to submit for the record about TIFIA and RFIA because the history of these programs has successfully demonstrated that Federal funding can be significantly leveraged. We have testimony from Jennifer Aument to this Committee in July 2017.

Without objection, that will be submitted.

[The referenced information was not received at time of print.]

Senator CARPER. May I make a similar unanimous consent request to submit the University of Pennsylvania Wharton School analysis that indicates only 2 percent of the moneys in fact would be generated?

Ms. CHAO. I would be more than glad to provide comments to that as well.

Thank you.

Senator BARRASSO. Without objection.

[The referenced information follows:]

Key Points

- President Trump recently released his updated infrastructure plan along with the Fiscal Year 2019 Budget. The plan proposes to increase federal infrastructure investment by $200 billion to provide incentives for a total new investment of $1.5 trillion in infrastructure.
- However, based on previous experience reviewed herein, most of the grant programs contained in the infrastructure plan fail to provide strong incentives for states to invest additional money in public infrastructure. Indeed, an additional dollar of federal aid could lead state and local governments to increase infrastructure total spending by less than that dollar since state and local governments can often qualify for the new grant money within their existing infrastructure programs. We estimate that infrastructure investment across all levels of government, including partnerships with the private sector, would increase between $20 billion to $230 billion, *including* the $200 billion federal investment.
- We estimate that the plan will have little to no impact on GDP.

Summary

The White House's newest infrastructure plan proposes to increase federal spending by $200 billion to stimulate a total of $1.5 trillion in new spending across all levels governments and the private sector. However, based on past evidence, much of the new federal aid would lead to state and local governments increasing total infrastructure investment by less than the value of the aid itself. We estimate that total new infrastructure investment would increase between $20 billion to $230 billion, *including* the $200 billion federal investment. There will be little to no impact on the economy.

The White House FY 2019 Infrastructure Plan

Introduction

USAFacts reports that the value of America's investment in one type of infrastructure, transportation, has waned from an average annual growth rate of 2.4 percent in the 1990's to 1.9 percent over the 10 years ending in 2015. President Trump proposes to reverse this trend by increasing federal investment in infrastructure.

Penn Wharton Budget Model (PWBM) previously reported a static estimate of $200 billion in new infrastructure spending in the White House Fiscal Year 2018 Budget as well as dynamic estimate of three options for investment in infrastructure. Our previous dynamic analysis of possible infrastructure plans ignored potential offsetting cuts to other federal infrastructure spending contained in the President's FY 2018 budget, which we reported in our static analysis. In other words, our dynamic analysis treated the entire $200 billion in the FY 2018 budget as *additional* federal spending. Ignoring potential federal offsets is a conservative assumption that gave the FY 2018 infrastructure plan the greatest chance of producing economic growth.

This brief reports our dynamic analysis based on the White House infrastructure plan that was recently made public by the White House along with the Fiscal Year 2019 Budget. Relative to the FY 2018 infrastructure plan, the FY 2019 plan contains more details about how the $200 billion in new federal aid will be spent to encourage additional investment by state and local governments as well as the private sector. Like our previous dynamic analysis, we conservatively ignore potential federal offsets, thereby assuming that the $200 billion in the FY 2019 represents additional federal spending. Nonetheless, we show that the more specific implementation details contained in the FY 2019 plan will likely lead to a total increase in infrastructure spending of less than $200 billion due to offsets that can now occur at the state and local level.

In particular, we review the economic literature that provides estimates of state and local government responses to federal aid. Those findings suggest that a substantial share of the types of federal aid contained within the White House infrastructure plan would cause state and local governments to increase total infrastructure spending---including the federal aid---by less than the federal aid award itself. The reason is that state and local governments can often qualify for federal grants within their existing infrastructure programs (sometimes called the "fungibility of spending"). As a result, a large part of federal grant money---even if targeted for infrastructure---simply produces a positive "income effect" for state and local budgets, allowing states and localities to spend more money on non-infrastructure programs. Based on estimates in the past literature, we develop a range of the FY 2019 plan's likely net effect on total infrastructure investments. We then report our estimates of the economic impact.

Overview of The White House Infrastructure Plan

President Trump's newly released infrastructure plan proposes that the federal government invest $200 billion over 10 years to provide incentives to generate a total new investment of $1.5 trillion in infrastructure by federal, state and local governments and the private sector. As shown in Table 1, federal spending will occur through a variety of programs. Three-fourths, or $150 billion dollars, of federal spending on infrastructure is explicitly designated for *matching grants* and *block grants*.

Matching grants are federal aid grants tied to a particular project or spending category. The value of the grant is proportional to the relevant state and local government spending. The White House infrastructure plan also has *caps* or limits on these matching grants. Once the state or local government spending hits the cap, the aid provided by the matching grant is exhausted. Block grants in the White House infrastructure plan are grants given to states. Block grant funding is not tied to specific infrastructure projects and is available for state and local governments to use at their discretion for qualifying projects.

The remaining $50 billion in the White House infrastructure plan will fund high risk transformative projects, expanded federal credit, private activity bonds and a federal capital revolving fund.

Table 1: Elements of the White House Infrastructure Plan

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Element	Description	Planned Federal Spending (in billions)	Federal Spending as a Portion of Total Infrastructure Project Cost
Incentive Grants	Designed to encourage state and local governments to invest in revenue-producing infrastructure projects. Includes a look-back period for revenue previously raised. Aid to any single state is capped at 10% of the total amount available.	$100	Up to 20% of new project revenue
Rural Formula Funds	States get $40 billion in block grants, remanining $10 billion similar to incentive grants designated for rural infrastructure.	$50	50% to 80%
Transformative Projects	Grants and technical assistance to develop projects that are likely to be commercially viable but are too risky for private sector investors.	$20	30% to 80%
Infrastructure Financing Programs	Expanded credit programs and loan availability for transportation, railroads, water, and other projects. Allow the private sector to invest in public infrastructure via tax-exempt bonds, capped by state.	$20	N/A
Federal Capital Revolving Fund	A fund to help federal agencies purchase real property so that large irregular real property purchases do not compete with annual opperating needs.	$10	100%
Real Property Reforms	Expedites the sale of non-productive, federally-owned property.	N/A	N/A
Reduce Deferred Maintenance on Public Lands	A fund used to maintain federal lands and sustained by receipts from leases to develop energy and mineral resources on federal lands..	N/A	N/A
Streamline Permits	Accelerates project delivery.	N/A	N/A
Total		**$200**	

Source: Legislative Outline for Rebuilding Infrastructure in America

An explanation of each type of grant is helpful for interpreting Table 1.

Incentive Grants: These grants, totaling $100 billion, are matching grants with caps that provide aid to state and local governments. The federal government offers these grants to support new, more efficient infrastructure projects that are also supported by new revenue streams such as user fees. Each state is limited to $10 billion in incentive grants. Furthermore, the incentive grant for each project cannot exceed 20 percent of new non-federal revenue generated by the project. Existing projects are eligible to receive incentive grants based on the amount of non-federal revenue the state already raised, up to a total of $5 billion for all projects.

Rural Formula Funds: These grants, totaling $50 billion, are grants available to states for qualified rural infrastructure projects in categories such as transportation, broadband, water, and power. From this $50 billion fund, $40 billion are block grants given directly to state governors to spend on qualifying projects at their discretion. The remaining $10 billion are similar to the incentive grants, but designated for projects in rural areas.

Transformative Projects Program: This program offers $20 billion to be allocated to both technical assistance and grants. The purpose of this aid is to encourage infrastructure investments that deliver new services or that embody new, untested technologies and ideas. These projects are less likely to be developed independently by the private sector as well as state and local governments because of their inherent riskiness.

Infrastructure Financing Programs: These programs, totalling $20 billion, encompass a wide range of initiatives designed to lower the borrowing rate, reduce administrative costs, and increase loan availability for infrastructure projects. The programs are available to fund projects developed by the private sector as well as state and local governments.

Federal Capital Revolving Fund: This $10 billion fund will be made available for federal agencies to buy property. Instead of allocating money out of an annual operating budget to purchase property, a federal agency can avail itself of this funding. With equal, more digestible payments spread out over the subsequent 15 years, the agency can pay back the revolving fund out of its operating budget. This fund is designed for use by federal agencies, not state and local governments.

State and Local Government Responses to Federal Infrastructure Dollars

States have discretion over their own budgets. So, when the federal government awards aid to states for infrastructure, state and local governments can, if they want, shift their own spending and revenues to fit what they think are their most pressing needs. When the federal government provides an extra $1 to state and local governments for infrastructure spending, state and local governments have a number of choices on how to adjust their spending. *Including* the extra $1 in federal grant money, state and local governments can increase total infrastructure spending by:

- More than $1
- Exactly by $1
- Less than $1

Evidence for "More than $1"

Hines and Thaler (1996) survey estimates of state and local government responses to federal aid. They find only one study, Bowman (1974), in which total spending increases by more than the federal aid. Bowman

(1974)[1], in which total spending increases by more than the federal aid. Bowman (1974) finds that each dollar from a federal matching grant for West Virginia schools increases total spending, including the $1 from the grant, by $1.06--an additional 6 cents above previously planned spending levels plus federal aid.

Knight (2002)[2] and Bowman (1974) claim that the limited evidence in favor of more than $1 increase in state spending may be due to the limited availability of matching grants *without caps*. Matching grants without caps encourage states to allocate more of their spending to infrastructure because the grants lower the state and local governments' cost of investing in additional infrastructure across the entire range of the projects. DelRossi and Inman (1999)[3] find that changes in the cost of infrastructure investment have a strong effect on legislators' demand for the size of infrastructure projects. By contrast, block grants do not appear to change the price of an additional dollar of infrastructure investment and so are more *infra-marginal* in their impact. Therefore, an additional dollar of aid in the form of a block grant is not going to increase total infrastructure spending by more than a dollar. Matching grants *with caps* behave similarly to block grants. If the state or local government exhausts its matching funds, the price the government pays for further infrastructure investment is the same as it is in the block grant.

Evidence for "Exactly by $1"

Alternately, one dollar of federal aid might lead to one more dollar in total infrastructure spending. Inman (1971)[4]finds that a dollar more of federal aid leads to about a dollar more in total spending. Similarly, Weicher (1972)[5] finds that each dollar in additional state aid to municipalities increases spending from federal, state, and local sources of about 90 cents, just short of a dollar.

Evidence for "Less than $1"

The majority of the studies, however, find that total infrastructure spending from local, state, and federal sources increases by less than $1 for each additional $1 in federal aid. In this case, state and local governments may shift some or all of the resources that would have been spent to other priorities. Although total spending goes up by less than a dollar in all of these studies, the range of these estimates is wide.

Most of the studies suggest that for every dollar in federal aid, total spending goes up by an intermediate amount, often around 50 cents. Weicher (1972) looks at state government grants to school districts and finds that each dollar in aid is reflected in about a 40 cent increase in educational spending. Gramlich and Galper (1973)[6] finds similar numbers for state governments and large urban governments---43 and 25 cents respectively. A dollar of state grant money to West Virginia schools increases total spending by 50 cents according to Bowman (1974); Missouri schools spend about 58 cents according to Olmsted et al. (1993).[7] Feldstein (1975)[8] finds that a dollar of state grant money to towns in Massachusetts increases total spending by about 60 cents, Case et al. (1993)[9] finds that grants across 45 states yield about 65 cents in additional total spending for each dollar in aid. More recently, Singhal (2008)[10] finds that for every dollar from the tobacco settlement---similar to a federal block grant---about 20 cents is spent on anti-tobacco programs.

A final set of studies finds that total spending goes up very little or not at all in response to federal aid. Knight (2002) uses a statistical methodology to show that, once legislative preferences are accommodated, total spending may not change at all in response to a change in federal aid. Carlino and Inman (2016)[11] find that only 13 cents of that dollar of federal aid sticks to infrastructure spending, leading to 87 cents being shifted to other state spending, debt reduction, lower taxes, or higher state reserve funds.

Applying the Empirical Literature to the FY 2019 White House Infrastructure Plan

We now map the evidence for state and local spending reviewed in the previous section to the individual components of the White House FY 2019 infrastructure plan outlined in Table 1 above. Because the previous literature indicates a potential range of state and local spending estimates, we consider three spending scenarios---Low, Medium and High---that are ordered by increasing amounts state and local spending in Table 2.

Table 2: Three Options for State and Local Government and Private Sector Response to Federal Aid for Infrastructure

DOWNLOAD DATA

		Net Change to Infrastructure Spending by Federal, State and Local Governments Under the White House Infrastructure Plan, (billions of dollars)		
Federal Spending Program	**White House Plan (billions of dollars)**	**Low**	**Medium**	**High**
Incentive Grants	100	0	50	100
Rural Formula Funds	50	0	25	50
Transformative Projects	20	0	20	40
Infrastructure Financing Programs	20	10	20	30
Federal Capital Revolving Fund	10	10	10	10
Federal Spending	**200**	**200**	**200**	**200**
Net Total Spending	**1,500**	**20**	**125**	**230**

Note: Under each of the above options the federal government spends $200 billion.

When the five programs are added together, Table 2 shows that we estimate that total infrastructure spending will increase by $20 billion in the Low spending scenario, $125 billion for the Medium scenario, and $230 for the High scenario. Of course, some of the FY 2019 infrastructure plan components will produce relatively more "bang for the buck" within each of the three spending scenarios, which we now discuss:

Incentive Grants: The incentive grants in the FY 2019 infrastructure plan do not provide strong incentives for state and local governments to invest additional money in infrastructure. These grants are mostly matching grants with caps, which will not change the cost of additional infrastructure once the grant is exhausted. In addition, states could qualify for incentive grants with existing qualifying programs or change the parameters on previously-planned projects, neither of which would represent any new investment. As such, these incentive grants are actually closer in design to block grants. The majority of the studies in the literature related to these types of grants suggest an increase to total spending of less than $1 for each $1 of federal grant money. For each $1 of federal grant money, we assume that total spending increases by $0, 50 cents and $1 dollar for the Low, Medium and High spending scenarios, respectively. Therefore, $100 billion incentive grants generate low, medium, and high values of $0, $50, and $100 billion in new public infrastructure, respectively.

Rural Formula Funds: The White House infrastructure plan explicitly labels the $40 billion in state aid as block grants. The remaining $10 billion in rural formula funds are similar to the incentive grants, which, as noted above, are actually similar in design to block grants in the FY 2019 infrastructure plan. Therefore PWBM uses the same ranges for rural formula funds and incentive grants. The $50 billion in rural formula funds generates $0, $25, and $50 billion in new public infrastructure.

Transformative Projects Program: This program is designed to assist in developing newer, riskier projects. As such, these funds and grants are less likely substitutes for other state needs. Therefore these programs are probably going to generate more infrastructure than the incentive and rural formula grants. For this category, PWBM places more weight on the studies that show that $1 of federal aid leads to $1 in total additional spending. These projects are also different than traditional infrastructure investments because they are riskier. Riskier projects will produce a wider range of values for the infrastructure being developed by this program. Therefore, PWBM uses a range of $0, $20, and $40 billion dollars for the value of the public infrastructure created through this $20 billion federal program.

Infrastructure Financing Programs: The White House plans to use this program to improve the availability of loans and the borrowing rate to promote infrastructure investment from the private sector and state and local governments. Lower interest rates and greater credit availability results in a lower cost of building infrastructure and encourages additional investment. The literature, which focuses on how state and local governments respond to federal grants, probably understates the additional infrastructure generated by these types of credit programs. Part of a possible increase in infrastructure investment, however, will be muted as state and local governments change their existing projects to take advantage of this program. Some state and local governments will take planned infrastructure projects that rely on alternate funding and instead apply to these infrastructure financing programs for project funding. Therefore, PWBM applies a wide range of estimates for how state and local governments respond to this program: $10, $20, and $30 billion dollars by this $20 billion federal program.

Federal Capital Revolving Fund: This fund provides money for agencies to buy physical assets such as land and buildings. Some of these assets may have been bought through the existing procurement process. However, as the new fund allows agencies to repay these loans over 15 years, those funds will be available again to purchase more assets. State and local government projects are mostly unaffected by this program. PWBM assumes that the full $10 billion allocated to this program is turned into additional public infrastructure.

Economic Effects

As in the previous literature and our previous dynamic brief of possible infrastructure plans, we model investment in public capital as a complement to private capital. In other words, more public capital investment raises the productivity of private capital and labor.

The economic effects of the FY 2019 infrastructure plan are shown in Table 3, assuming that the federal share of $200 billion is deficit financed. By 2027, public capital rises by between 0.1 and 1.2 percent, across our three (Low, Medium and High) spending scenarios. However, debt is 0.5 to 0.9 percent higher as well. Even though public capital is modeled as a complement to private capital, higher debt dampens private capital accumulation.

When deficit-financed, the White House infrastructure plan, therefore, has no effect on GDP, potentially even slightly reducing it.

Table 3: The Effects of $200 Billion of Federal Investment in Public Capital Funded with Higher Deficits on Key Variables Relative to Current Policy in Year Shown

DOWNLOAD DATA

Year	Net Change to Infrastructure Spending by Federal, State and Local Governments	Revenue (% change)	Debt (% change)	GDP (% change)	Hours Worked (% change)	Average Hourly Wages (% change)	Public Capital Services (% change)	Private Capital Services (% change)
	Low	-0.1	0.9	-0.1	0.0	-0.1	0.1	-0.2
2027	Medium	0.0	0.9	0.0	0.0	0.0	0.7	-0.1
	High	0.1	0.8	0.0	0.0	0.0	1.2	-0.1
	Low	-0.1	0.7	-0.1	0.0	-0.1	0.1	-0.2
2037	Medium	0.0	0.6	0.0	0.0	0.0	0.4	-0.2
	High	0.0	0.5	0.0	0.0	0.0	0.8	-0.1

Note: The $200 billion in federal infrastructure investment is financed with higher deficits. Consistent with our previous dynamic analysis and the empirical evidence, the projections above assume that the U.S. economy is 40 percent open and 60 percent closed. Specifically, 40 percent of new government debt is purchased by foreigners. The government is assumed to focus spending on "shovel ready" projects and so, the above projections assume double the spending rates and building rates applied by CBO (2016). Consistent with empirical evidence, the projections above assume that the elasticity of output to a change in public capital is 0.05. The projections above assume a high rate of return to private capital. Projections that assume a low rate of return to private capital are not materially different. Revenue estimates change with the distribution of taxable income that reflect a dynamic economy.

Table 4 shows the economic effects, assuming that the federal share of $200 billion is financed by user fees, which is modeled as an efficient lump-sum tax on households over the next 10 years. Public capital rises between 0.1 to 1.2 percent by 2027. Since the $200 is not deficit financed, debt actually falls by as much as 0.1% due to a growing economy and tax base. The combination of more public capital and lower debt leads to a modest boost to private capital and an economy that is slightly larger than under current policy.

Table 4: The Effects of $200 Billion of Federal Investment in Public Capital Funded with User Fees on Key Variables Relative to Current Policy in Year Shown

DOWNLOAD DATA

Year	Net Change to Infrastructure Spending by Federal, State and Local Governments	Revenue (% change)	Debt (% change)	GDP (% change)	Hours Worked (% change)	Average Hourly Wages (% change)	Public Capital Services (% change)	Private Capital Services (% change)
	Low	0.0	0.0	0.0	0.0	0.0	0.1	0.0
2027	Medium	0.1	-0.1	0.1	0.0	0.0	0.7	0.0
	High	0.2	-0.1	0.1	0.0	0.1	1.2	0.1
	Low	0.0	0.0	0.0	0.0	0.0	0.1	0.0
2037	Medium	0.1	-0.1	0.0	0.0	0.0	0.4	0.0
	High	0.1	-0.2	0.1	0.0	0.1	0.8	0.1

Note: The $200 billion in federal infrastructure investment is financed with higher deficits. Consistent with our previous dynamic analysis and the empirical evidence, the projections above assume that the U.S. economy is 40 percent open and 60 percent closed. Specifically, 40 percent of new government debt is purchased by foreigners. The government is assumed to focus spending on "shovel ready" projects and so, the above projections assume double the spending rates and building rates applied by CBO (2016). Consistent with empirical evidence, the projections above assume that the elasticity of output to a change in public capital is 0.05. The projections above assume a high rate of return to private capital. Projections that assume a low rate of return to private capital are not materially different. Revenue estimates change with the distribution of taxable income that reflect a dynamic economy.

Conclusion

President Trump has presented a broad outline for infrastructure policy with a federal commitment of $200 billion. We find that most of the $200 billion will not be spent on programs that encourage state and local governments to vastly expand spending on infrastructure. As a result, the plan has a very small impact on the size of the economy. The plan produces slightly better outcomes when funded by user fees than when deficit-financed.

PWBM thanks Robert P. Inman for his helpful comments and suggestions.

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Senator BARRASSO. Senator Inhofe.

Senator INHOFE. Thank you, Mr. Chairman.

I appreciate you coming to me. I am chairing the Armed Services Committee hearing at this time, but what we are doing here is so significant. I am very excited and positive about it.

Just to clarify, we have been in contact with our committees, two committees, Commerce and Environment and Public Works, the White House, and the Administration many, many times. We got a good running start, and good things are happening.

I was encouraged by the President's proposal. I think we can all come together, and there is no better evidence of that than a joint Wall Street Journal article written by Senator Whitehouse and me just last week.

I ask unanimous consent that it be made a part of the record at this point.

Senator BARRASSO. Without objection.

[The referenced information follows:]

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COMMENTARY

Both Sides of the Aisle Want Better Roads and Ports

Conservative Republicans and progressive Democrats can find common ground on infrastructure.

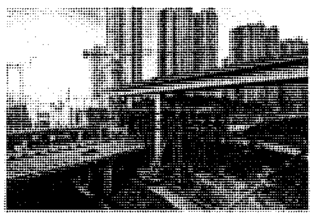

PHOTO: ISTOCK/GETTY IMAGES

By James Inhofe and Sheldon Whitehouse
Feb. 21, 2018 6:13 p.m. ET

During his State of the Union address, President Trump called for a broad bipartisan infrastructure package, pledging to improve the nation's infrastructure and invest in the future. If you believe the news reports on partisan bickering in Washington, this bipartisan approach might seem impossible. But we know that it can, and will, happen.

We serve on the Senate's Environment and Public Works Committee, which has jurisdiction over most infrastructure bills. Its members include staunch conservatives and strong progressives—like us. Despite our differences, the committee has produced some of the largest and most effective bipartisan legislation of the past decade, such as laws to spur transportation and water projects and to harmonize the regulation of toxic substances.

Now we need to do it again. There's a strong link between infrastructure investment and a robust economy that creates jobs. The American Society of Civil Engineers estimates that unless the U.S. starts making smart investments now, by 2025 the country will have forgone $3.9 trillion in gross domestic product, $7 trillion in business sales and 2.5 million American jobs.

The time is right to close the infrastructure gap. America's economy is strong and poised to continue growing if Congress can work together to make smart decisions. In the past few weeks we've heard a lot from our colleagues, Republicans and Democrats alike, about their respective priorities. The path to success is to start with shared goals.

The two of us believe that state and local leaders should identify and select the projects that are most needed in their communities. There is no one-size-fits-all federal solution for infrastructure. Local communities know best what they need, whether it's to upgrade a wastewater facility in Warren, R.I., or repair a levee in Tulsa, Okla.

Money should be specifically designated for rural infrastructure. The unique needs of rural communities often make it difficult for them to compete with urban ones for private financing or traditional funding. By specifically designating resources for states to use in their rural areas —on roads or drinking and wastewater systems—we can ensure they have the means to upgrade and build.

Coastal communities face their own challenges. Bridges and water-treatment plants near the shore can confront hurricane winds and saltwater flooding. Bond ratings account for these risks, meaning coastal cities and counties face higher costs to finance public projects. A smart infrastructure plan would emphasize investment in coastal structures and systems, including the great ports that support jobs in fishing, shipping and trucking.

One way to provide greater autonomy to cities and states would be to expand existing bipartisan programs. The Transportation Infrastructure Finance and Innovation Act of 1998 helps communities obtain low-interest loans to maintain roads or build a new highway. This program should be opened up to other forms of infrastructure, such as airports and inland waterways.

Finally, Congress should streamline the process for approving new projects, so that critical ones can get off the ground faster. The Treasury Department reports that among the major obstacles to completing infrastructure projects are inefficient reviews and lack of consensus among public and private entities.

Changing the process so that all stakeholders are brought to the table early on would help balance competing interests while still addressing safety and environmental concerns. That would allow infrastructure projects to move forward more quickly, enabling communities and businesses to make smart, timely investments. Meanwhile, the executive branch has its own job to do to improve its multiagency review process.

This is just the beginning of a long road to a truly comprehensive and bipartisan infrastructure bill. There are many policy areas about which Republicans and Democrats will need to debate and compromise, but that doesn't deter us. We believe in getting results for the American people—and that starts with finding common ground.

Mr. Inhofe is a Republican senator from Oklahoma. Mr. Whitehouse is a Democratic senator from Rhode Island.

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Senator INHOFE. I am very serious when I say this, Madam Secretary, because Senator Whitehouse is one of the more progressive Democrats. I am a conservative Republican, and we agree on this stuff.

There is an old document nobody reads anymore called the Constitution that tells us what we are supposed to be doing here, defending America, and they called it post roads back then, so we have every intention of doing that.

The Harvard Harris Polls show that 84 percent of Americans responded that we need to invest more in our infrastructure, and then they talk about different methods of paying for all this.

I do think when we look at this we need to consider the additional revenue that will be coming in as a result of the increase in economic activity. It works out for each 1 percent increase in economic activity; it develops about $3 trillion over 10 years of additional revenue.

This worked back in the middle 1960s with Kennedy and certainly worked with Reagan. That needs to be considered.

Secretary Chao, I will be looking forward to working with you. Our Oklahoma Department of Transportation has shared with me that for each year of delay of a project, 3 percent of cost actually goes up. Timing is important.

When funding is scarce and hard fought to earn, it can really limit what our States and local entities can accomplish. I appreciate the Administration's recognition of this fact with their focus on project delivery reform.

We did a great job in the FAST Act with a lot of the project delivery reforms. It was huge, so we got a lot more miles done than we would have otherwise. At that time, I chaired this Committee, and Senator Boxer was the Ranking Member. We did accomplish some things.

Can project delivery be both timely and environmentally sound? I would ask you to respond to that, if you would.

Ms. CHAO. Of course. Out of the 30 different regulations required by the FAST Act, everything has been done except for two. They should be coming out by June of this year.

On the other issues about one Federal decision announced last August 2017, this actually addresses more than the FAST Act. It addresses multi-departmental, multi-agency coordination.

We are finding as we implement what the FAST Act has asked, there are larger problems about permitting that spans the entire Government, which is why we need to tackle the rest of the permitting processes in the other departments on a multi-agency basis.

Senator INHOFE. Your first response, people should pay attention to that. We have actually done that. It has been done now, so we can do it again.

Secretary James, I do have a question I want to ask you concerning the Corps of Engineers. However, it is a long one, so I am going to submit that for the record if that is all right.

Mr. Chairman, thank you for giving me this priority.

Senator BARRASSO. Thank you, Senator Inhofe.

Senator Merkley.

Senator MERKLEY. Thank you, Mr. Chairman.

I wanted to start with Mr. James by asking you about the tribal villages along the Columbia River that we had a chance to discuss before. These are the villages that were flooded by building dams on the Columbia River. We rebuilt the city that served the Caucasian population but did not fulfill our commitment to the Native American tribes to rebuild their villages.

I think you indicated some interest and support for this. I just wanted to check in and see if you are prepared to help champion getting this long overdue commitment done.

Mr. JAMES. Yes, sir. I do think that is the right thing for this country to do. The tribes that were moved out of their homeland areas have been promised housing in other places. We should do that as a Nation. There is no question about that. I look forward to working with you in the future and will help with your efforts in doing that.

Senator MERKLEY. Thank you very much. I sure appreciate that.

Secretary Chao, I wanted to ask you about the basic question of Buy America and Buy American referring to U.S. sourced steel and inputs for what we build as a U.S. Government and Buy America, U.S. sourced steel and other products for projects funded by American grants, U.S. Government grants.

In his inaugural address, President Trump said, "We will follow two simple rules, buy American and hire American." Is the President still standing by this pledge for buy American?

Ms. CHAO. Absolutely, at the Department of Transportation.

Senator MERKLEY. Thank you, because here is the thing. Buy America is not mentioned at all in your infrastructure proposal. It is not mentioned in the context of the transportation and water projects; it is not mentioned as a requirement in the infrastructure grants; it is not mentioned in the issue of relocation of utilities; and it is not mentioned in the requirements for the airport improvement program, so on and so forth.

Can you pledge to insert Buy America and Buy American into these proposals so that we will buy American made steel?

Ms. CHAO. There is an executive order outstanding on January 20, so I think it is quite clear that is governed by a different authority. But you make a good point, and I will certainly consult with the White House on that.

Senator MERKLEY. Thank you. Actually, unless it is in the legislation issuing these grants, it will not actually be compelling. I would like to work with you to achieve that vision and that objective.

Ms. CHAO. If I may add one other thing, we are actually applying the Buy America to all these grants, so thank you.

Senator MERKLEY. Thank you. I appreciate that a great deal.

The second thing I wanted to explore is the challenge of whether we are simply moving chairs around on the deck of our infrastructure Titanic. In that regard, I have a chart I would like to show you.

This chart shows that the President's budget is taking a total of $280 billion out of infrastructure: out of the TIGER grants, $5 billion; out of the Highway Trust Fund, CBO estimates $164 billion; out of the new starts, almost $20 billion; out of Amtrak, $7.6 billion; Army Corps of Engineers, $14 billion; CDBG, $30 billion;

home grants, incredibly important to so many areas for housing, $9.5 billion; public housing capital, $19 billion; the Economic Development Administration, so important in rural areas, $2.5 billion; aviation, $3.6 billion; and rural water, $5.1 billion.

These total $280 billion. If we look at what is going on here, we are cutting $280 billion for infrastructure here and adding $200 billion over here. That is a net loss on infrastructure. How does that fulfill the vision of an aggressive infrastructure program?

Ms. CHAO. I think there is a disagreement about the purpose and use of Federal funding, which is obviously a discussion point for us and why we are all here.

The numbers you mentioned are compared to the 2018 fiscal year. If you look at 2017, it is actually not a cut; 2018 went up, and therefore, that is how you consider it a cut. Nevertheless, the FAST Act increases the mandatory portion by more than 4 percent. Overall, the DOT budget is pretty much the same in 2019 as well. The $200 billion that has been moved has been inserted into the infrastructure proposal which is in another part of the overall Federal budget.

Senator MERKLEY. I thank you for your answer. I am not persuaded by it. It appears to me we are not making the type of commitment we are pretending to make. I will close with this because my time is up. How quickly it passes.

Folks back home are saying—let me get this straight. We take our resources and build something. The Federal Government puts in a tiny amount of money, and then they take credit for it. This is the 80-20 versus the 20-80 split we heard previously.

They are saying, we simply do not have the 80 percent, so we will not build under this structure. Quite frankly, they consider it a bit of a farce to put in a tiny bit of money and then claim credit for the entire thing. There is a lot of concern that this is not really going to fly in terms of motivating or enabling infrastructure that we desperately need.

Senator BARRASSO. Thank you, Senator Merkley.

Senator Moran.

Senator MORAN. Mr. Chairman, thank you very much.

Madam Secretary and Mr. James, thank you for being here.

I have just a couple of comments before I ask questions of the Under Secretary.

For you at the Department of Transportation, I want to raise the topic of hours of service, a topic that never seems to end, at least in my life as a representative of a rural State in particular. For you Madam Secretary, I want to raise the mandate on the electronic logging device.

There is a 90-day extension that expires March 18, a few days from now. I need your help with the Federal Motor Carrier Safety Administration working with the livestock industry to delay the implementation of ELD.

This really is an hours of service issue, and how do you haul livestock, live animals, and comply with the mandate, the hours of service law. From a humane and common sense point of view, what we have to date does not work, but the rubber, so to speak, is hitting the road because of the ELD mandate changing the method by which truckers record their hours of service.

There is a petition pending, a request for a delay. March 18 is around the corner. That is a 5-year delay request, but this issue needs more attention than just this issue of electronic logs. I thank you for your nodding yes and hope that is a suggestion that you will help us try to find a solution in the matter of just a few days.

Ms. CHAO. I am very concerned about this issue. I have heard a lot on this issue from various rural Senators and Congressmen. Exemptions or waivers are one way, but we are also tied legislatively, so we hope to work with you on addressing that on a larger basis.

Senator MORAN. We are working legislatively in the appropriations process, potentially in the omnibus bill, but March 18 is a very short period of time. They have allowed a 90-day delay, which gets us to March 18, which we appreciate, but it does not go far enough.

Second, Madam Secretary, in your confirmation hearing, I submitted to you a question about the commercialization of rest areas. You indicated in your written response that you would adhere to the existing law.

Congress has voted on the issue of commercializing rest areas, and overwhelmingly—I think the vote was 86-20 that voted against this commercialization.

I do not have a specific question, but I would just highlight for you your answer to me. The present plan in front of us from the Administration does include commercialization proposals.

Again, as a rural legislator interested in those local businesses and franchisees, we have a concern about that commercialization and the competition that could come in an unfair way.

Ms. CHAO. I hear you.

Senator MORAN. Thank you, ma'am.

To the issue of water resources, in 1 minute, 58 seconds, I want to raise two topics with you. One is the way that lack of resources is a common denominator, a complaint that you would have and that I would have in regard to our ability to do water resource projects.

I wondered about the process by which the Army Corps of Engineers has now gone to a three phase process in what used to be a two phase process. We now have the feasibility phase, the PED phase, and the construction phase.

Mr. James, my question is has there been any consideration of reducing those three phases to two? Because once we get through the first two phases, which take a period of time, then there is no money for the construction phase. Can we shorten the first two phases into one in the hope that those projects are not lingering as long as they do today waiting for the funding?

Mr. JAMES. Those are internal negotiations going on inside the Corps of Engineers. To answer your question, those are three completely different things. We are looking at streamlining. We know we want to quit wasting a penny here if we can and add the pennies and put a dollar to ground. That is what we want to do. I have the commitment from General Semonite, and we are going to do that.

However, the three phases you talk about I think we will streamline each one of them, but I am not sure we could do away with both of those, I mean one of those, because they even have different types of engineers and planners working on them.

Senator MORAN. I thank you for your answer. If you will follow up with me, that will be fine.

Mr. JAMES. I will do that, sir.

Senator MORAN. Thank you very much.

My final point to you is I have noticed a particular problem we have in Kansas related to the Corps. I will not ask a question because I am out of time. But I would highlight for you, we have ongoing dam work that the surface of the dam is a State highway. That requires a detour over the dam for the next several years while construction is ongoing.

There are no resources to provide the detour route around the dam construction the Army Corps of Engineers is involved in. We need the Army Corps of Engineers to work more closely with State and local governments in advance of making the decision so that a solution can be found for alternative routes.

Mr. JAMES. That is very reasonable.

Senator MORAN. Thank you.

Senator BARRASSO. Thank you, Senator Moran.

Senator Cardin.

Senator CARDIN. Thank you, Mr. Chairman.

I thank both of our witnesses.

Secretary James, I want to talk about our high priorities for Maryland and our region in regard to environmental restoration and sites for dredged material. I asked you a question specifically about Poplar Island, which is an ongoing project in the President's budget. I first want to acknowledge General Semonite's letter that I received this past week in which he has completed the Chief's report on Mid Bay, which is the next staging area to continue the program.

I appreciate General Semonite's comment, "I consider this a very important project for our ecosystem and navigation system." That is what Poplar Island was authorized for, the first of its kind that would be a win-win situation for our navigation and for our environment. Congress specifically authorized it for that purpose and has funded it.

I understand in the President's budget submission, he reclassifies the project to compete solely on navigation rather than on the dual purpose and provides $21 million of funding which is an inadequate amount of money. We hope to address that during the appropriations process.

I am not sure legally what basis the President has in the budget submission to change the authorization by Congress. I would just ask your cooperation to please check the legality of that but more importantly, to work with us because the bottom line is we want to be able to continue this policy which has been extremely successful for navigation and environment where we have the local community strongly supporting the site locations, and we have been able to maintain our channels.

My request is if you would personally take a look at this, work with us, and work with the regional delegation so that we can make sure Poplar Island can receive what it needs for its last diking and be able to complete its mission. We then hope to transition to Mid Bay.

Mr. JAMES. How much time do I have?

Senator CARDIN. If you are going to tell me, I agree with you completely, you can take as much time as you want.

Mr. JAMES. I have been briefed on this area, the dredging and the Poplar Island situation. I could not answer that if you posed it as a question right now for sure. My staff will get back with you on the specifics, and I will be happy to work with you as we go forward.

Senator CARDIN. I appreciate that.

Mr. JAMES. I have an overall theme and feeling on dredging and dredge disposal in our country. The fact of it is that a lot of our dredged material placement is turned down and not allowed because of "environmental objections." It actually prevents dredging, due to the increase in cost, from taking place. It is not just up the north coast; it is all around. As we move forward, as I can get out of the cradle, I intend to talk to the other permitting agencies about that and see if we can agree on a way forward.

Senator CARDIN. I appreciate that.

I will return the question; how much time do you have? If you do, I would invite you to join me, Senator Van Hollen, and others to visit Poplar Island. I think seeing it would be extremely important in understanding what has been achieved by keeping our channels open but also the restoration of a major part of the Chesapeake Bay, a former habitable island that now is a plus for our environment.

I welcome working with you on that issue but recognize that Congress specifically did authorize that project.

Mr. JAMES. Thank you.

Senator CARDIN. The second point I want to make, Mr. Chairman, in the remaining seconds, is to Secretary Chao.

I am not going to go through all the revenue issues. I do not understand how we are going to get to $1.5 trillion. I do not understand the $200 billion because I think it is recycled money, so we are not really putting up any more.

I say that recognizing that we have challenges. In the Washington region, I have a special interest. I commute back and forth from Baltimore every day. It is a challenge. We need better transit; we need better commuter rail; we need better ideas on rapid rail.

Obviously, we have to work with the community to make sure that what we do is consistent with what the community wants, but we need to have the resources in order to move those forward. These are substantial investments that under the current funding laws are going to be a challenge to get. We need additional funding in order to achieve that.

The last point I really want to put on the table is that we have a tremendous backlog in maintenance. Before we build a lot of new roads and bridges, are we sure that our current roads or bridges will not collapse? Do we have a commitment to maintain our infrastructure as part of this initiative?

Ms. CHAO. The overall funding for roads and bridges in America is assumed 84 percent by the States and local areas. Actually, the

Federal funding is only 14 percent. Putting that aside, I think maintenance is very important. We want to work with you on that.

Senator CARDIN. Thank you, Mr. Chairman.

Senator BARRASSO. Thank you very much, Senator Cardin.

Senator Ernst.

Senator ERNST. Thank you, Mr. Chair.

I want to thank Senator Moran for bringing up the EDL mandate issue. I want to go a little further and ask Madam Secretary if there is a specific date on which the DOT will be getting back to our livestock haulers on that.

Again, the time period is running out. It is just about 2 weeks away. We do need to have an answer there. Do you have a date that we can expect the DOT to respond?

Ms. CHAO. I think the larger problem is the hours of service. If we do anything, it will be another extension.

Senator ERNST. OK.

Ms. CHAO. Another waiver.

Senator ERNST. Waiver.

Ms. CHAO. That is not a permanent solution, so we need to have a legislative fix of some sort.

Senator ERNST. I do agree. We can expect that waiver to occur before the mandate runs out?

Ms. CHAO. I am sympathetic.

Senator ERNST. OK. We hope to see that.

Ms. CHAO. A decision will have to come up before March 18.

Senator ERNST. Thank you, Secretary. I did hear from a hauler yesterday that they are very, very concerned about this. Thank you for that.

I would like to also visit with you, Secretary, about rural broadband. I was really glad to see that the Administration recognizes the importance of rural broadband deployment and making it eligible for funding in the framework of a rural infrastructure program.

The Federal broadband loan and grant programs, such as the FCC's Universal Service Fund High Cost Program and the USDA's Rural Utilities Service, are already in place. I am wondering, why then did the Administration decide not to do direct funding through the existing programs?

Not all States are going to have the level of expertise or programs in place to efficiently build out their broadband. I do understand the significance of doing block grants to the States, but why are we not utilizing existing programs? Do you maybe have some thoughts there?

Ms. CHAO. I will look into that. I have not seen it, but you brought it up. Basically, 25 percent of the funds will go to rural America, and then it is going to be up to the Governor and the States as to how they want to spend that. Broadband obviously is one area we would encourage them to pay some attention to.

Senator ERNST. Absolutely. Broadband is very, very important to rural areas. I do understand that we will have a quarter of the dollars allocated for the infrastructure package going to those rural areas.

However, we also want to make sure there is expertise involved with building out some of those broadband networks. We will encourage you to go in and look at that or those working on that program just to make sure those dollars are as efficiently used as possible for rural areas.

Ms. CHAO. Let me add one more thing. That goes through the FCC.

Senator ERNST. Yes, thank you. I appreciate that. We will want to work with the FCC on that, but we are glad it was included in the infrastructure package.

Secretary James, of course I am going to bring up one of my favorite topics, our Cedar Rapids flood mitigation project. It does apply to a number of other Senators as well that have projects affected by the benefit to cost ratio.

I sent a letter to you and General Semonite in early February looking for answers to some of the questions I have about how the Corps determines which low BCR projects are funded under the significant risk to human safety exception.

I have posed this question numerous times to both General Semonite and Director Mulvaney. We have not really figured out how those determinations are made for that safety exception. Do you have an update on how those determinations are made and when I will be receiving an official response?

Mr. JAMES. No, ma'am. Since your letter, I have not been updated on that. I did ask the question, and the answer at that time, which was a short answer because we were weaving through everything, was that there has not been one excepted since 2012, I think it was.

That is not a very good answer, and I am not giving you that for an answer. If you will allow me a few more days to get deeper into it myself, I will give you a call, meet with you, or whatever and try to figure this out.

The way the budget is written and the other factors that go into making that determination of BC ratios just will not fit for the Corps to legally do that work right now. However, I want to look forward with you and work a way forward to see what we can do on it.

Senator ERNST. Thank you, Mr. Secretary. If it does require a legislative fix, we need to figure that out so that rural areas, those low cost of living or low property value areas do have a fighting chance to be considered.

Mr. JAMES. Yes, ma'am. I cannot suggest that to you, but I can give you any information you ask for.

Senator ERNST. Yes. As far as the safety issue as well, a life in Iowa is just as valuable as a life in California or New York.

Thank you very much. I appreciate it.

Senator BARRASSO. Thank you, Senator.

Senator Gillibrand.

Senator GILLIBRAND. Thank you, Mr. Chairman.

Madam Secretary, last month the NTSB issued reports on two rail accidents that occurred last year in Queens, New York, and Hoboken, New Jersey. In these reports, the NTSB found that engineer fatigue caused by undiagnosed severe obstructive sleep apnea resulted in the crashes in both instances.

This is not a new issue. The engineer of the train that derailed in the Bronx in 2013 also suffered from undiagnosed sleep apnea.

This is a problem in other modes of transportation as well, including trucking.

Addressing this problem is on the NTSB's most wanted list for transportation safety improvements. All of this is why I was very troubled when the Department of Transportation announced it was withdrawing a proposed rule on screening rail engineers and truck drivers for obstructive sleep apnea.

Given you have withdrawn the proposed rulemaking, what does DOT intend to do to address this very real and urgent safety concern?

Ms. CHAO. Senator, since you brought it up, I will take another look.

Senator GILLIBRAND. OK. Thank you very much. I am very grateful.

The second issue is about the Federal Transit Administration, which is an agency of your department. It has issued a rating of medium to low for the Gateway Program's Hudson Tunnel Project, which is the second lowest possible rating. This rating means that the project is not eligible to move forward to the next phase in obtaining a Federal New Starts grant.

How did the FTA take into account the funding the States of New York and New Jersey have committed to providing for the local share of the project, which is 50 percent, over $6 billion?

Ms. CHAO. First of all, this rating was done by the career folks, so it occurred in the FTA multi-layers before it even comes up to the political appointees.

No. 2, we are not anxious for a fight on this. But for New York and New Jersey to consider funds debt that we have given them as part of their equity back to us is something that we disagree with. In our calculation, New York and New Jersey are putting in 5 percent not 50 percent.

We will continue to talk about this. But using TIFIA loans and RRIF loans as part of equity is not how we define equity.

Senator GILLIBRAND. Right. But the Administration has spoken about a desire to have more local skin in the game when it comes to funding infrastructure projects, so that the Federal Government is not bearing the full cost. Do you think that Federal loans which require repayment by the State or the local entity count as having skin in the game for the purpose of providing local cost share?

Ms. CHAO. It is like a mortgage. If you have to put in 20 percent mortgage, and you get another loan and you put down your down payment as for the 20 percent, that is not really equity. That is just another second mortgage that further encompasses the house.

Senator GILLIBRAND. Right, but if you are only putting in loans and not putting in any funding through grants, it means that we are paying for the whole project.

Ms. CHAO. No, because our loans are 50 percent, so you are counting back the 50 percent we are giving to you in loans as equity.

Senator GILLIBRAND. Right, but we are paying for it. The same way you actually own the house, you own the house.

Ms. CHAO. Over time, but there has to be some equity in there. I do not want to argue with you because this is a huge issue. It is huge to you, it is important to me, so let us continue to work on it. I think it is a further definition of what equity is and what the local participation is.

Senator GILLIBRAND. OK. How would you like to work forward to move this project forward?

Ms. CHAO. I am open to your suggestions as well but perhaps we should get our groups together. I will have our staff work with your staff.

Senator GILLIBRAND. Let us do that. Thank you.

Ms. CHAO. Thank you.

Senator BARRASSO. Thank you, Senator Gillibrand.

Senator Capito.

Senator CAPITO. Thank you, Mr. Chairman.

I want to thank both of you for being here today.

Madam Secretary, I am very excited about the Administration's attention to rural development, particularly in infrastructure. I am pleased about the 25 percent proposed funds that would address the unique needs of rural America. I echo Senator Ernst's feelings on the broadband issue.

Let me ask a question. We have received a lot of questions on how you are going to match this, what States are going to do, and what private entities are going to do. Obviously, in a State like West Virginia, private investment would be very difficult to attract.

Because the Administration says raising new non-Federal revenue will be given a 50 percent weight, I live in a State that is very challenged, cash strapped, and rural; however, last year our voters voted via referendum to approve a sale of $1.6 billion in road bonds. You might ask how we did that. We did it with a lot of push from the Governor and the Secretary of Transportation. We also did it because there was a feeling from the ground up that we needed to do something about our deteriorating infrastructure on the State level.

At one of our institutions in West Virginia is a radio guy named Hoppy Kercheval, and he came up with a great advertising theme. I am recommending this to you. It was FTDR. He just played it every day on statewide radio. It stands for fix the damn roads, and it worked.

I want to make sure, even though this was passed last fall, that when we move forward with this infrastructure, we are going to be able to retroactively grab that money as part of our match. I know it is in the infrastructure proposal, but when it talks about years 0 to 1, you only get X percent. It is unclear how much weight we are going to be able to have for the $1.6 billion we have, as a cash strapped State, already put into something we feel very passionate about.

I would just bring this to your attention. I do not know if you have a comment on this, and where you think this goes. The States that have already made this move do not want to be left out and only be looking forward instead being able to look retroactively to a year or two previous.

Ms. CHAO. I want to compliment West Virginia for its creativity and innovation. It can be done as has just been shown. Two, I also understand that not every rural region or State can have that kind of access or can do that.

That is why the rural component of the infrastructure proposal is not competitively bid but would be somewhat on a formula basis. Of course that is subject to the will of Congress. What you are talking about is a look back.

Senator CAPITO. Right.

Ms. CHAO. The look back currently is 3 years.

Senator CAPITO. Right.

Ms. CHAO. But I hear you, and I will go back to the White House and talk to them about it.

Senator CAPITO. Just a little more specificity in the rural area. I know I have been in numerous meetings with you and others where those of us who represent rural areas really emphasize the difficulty of attracting that private capital.

Thank you.

Secretary James, I wanted to talk to you about our waterways and the fiscal year 2019 budget request from the Corps. The Lower Mon locks, which are important obviously to moving cargo down through the Ohio River, were built in 1907. They are very antiquated and need repair. Our barge operators have already supported a tax increase, but they are not seeing the dollars coming to the areas most frequently utilized.

I would like to ask you why does the Administration not propose spending any money on the Lower Mon Kentucky or Chickamauga projects in fiscal year 2019?

Mr. JAMES. The reasoning, as I understand it in my short time being on the job, is they do not meet the benefit-cost ratio that is required for those kinds of work.

Senator CAPITO. Are you saying it is down on a priority list, or are you saying we are just going to close them, and let them deteriorate to where they can no longer be used? What is the long term plan here?

Mr. JAMES. I do not have that yet, ma'am.

Senator CAPITO. Maybe we could work together on it.

Mr. JAMES. I would be happy to work with you further on it. I apologize, but I just do not have a grasp on that. I do know that is why no work has been done on them, and they have not been budgeted, because of their BC ratio.

That is about it that I know right now, but I would be happy to go forward working with you.

Senator CAPITO. Thank you very much.

Senator BARRASSO. Thank you, Senator Capito.

Senator Van Hollen.

Senator VAN HOLLEN. Thank you, Mr. Chairman.

Secretary James, first of all, let me thank you for your testimony.

I just want to associate myself with Senator Cardin's comments and questions with respect to both the success of Poplar Island in the Bay and the Mid Bay project. They are really important to navigation for the channel for the Port of Baltimore.

I look forward to working with you and your team. We have been and will look forward to continuing to work with you and your team on that.

Secretary Chao, thank you for your testimony.

When it comes to modernizing our infrastructure, this is an issue that brings people together. I remember the night President Trump won. The one substantive issue he talked about was modernizing our infrastructure. A lot of us would have liked to see us move earlier, but we are glad to try to move forward now.

I guess my question does go to the simple budget math. One, I have serious questions about the leverage ratios in what used to essentially be a Federal program. Our highway program is 80-20. You have flipped that on its head for the purposes of this new proposal to 20-80.

I support many of these private-public partnerships. You and I have worked together on the Purple Line in Maryland. We believe that will be a successful private-public partnership, but if you look at the funding sources, almost half comes from the Federal Government.

That was really required to leverage both the State and local component as well as the private component as part of that project. I think there are very serious questions about the leveraging math that is being used.

I have a question about the overall budget math, following up on Senator Merkley's question because it really does seem like an effort to give with one hand. Of course we cannot give in terms of this transportation plan because we do not know the funding source for the Federal share, and taking away with the other.

What is your estimate of the current 10 year shortfall in the Transportation Trust Fund?

Ms. CHAO. As I mentioned, the mandatory part of the department increases 4 percent, so pretty much the budget is the same. It is also the same compared to fiscal year 2017. It ramped up for 2018. That is what people are comparing to but in 2017, that was always the level.

Senator VAN HOLLEN. I serve on the Budget Committee. We just had OMB Director Mulvaney recently.

Ms. CHAO. The $200 billion actually is put in for the infrastructure.

Senator VAN HOLLEN. I know that is a separate fund. You are putting in $200 billion, but we do not know what the source of funding exactly will be, but you are cutting, as Senator Merkley pointed out, in other parts of the budget, well over $200 billion in infrastructure.

For example, you were just talking to Senator Capito about rural areas. You cut $5.1 billion in the 10-year budget out of rural water and wastewater grants. When you add it all up, including the shortfall.

Ms. CHAO. That is not in my budget.

Senator VAN HOLLEN. I know, but it is the case, is it not, that one of the uses of the $50 billion that can go to rural areas is for rural and water infrastructure? Isn't that part of the plan?

Ms. CHAO. My infrastructure portion is only transportation.

Senator VAN HOLLEN. I am talking about this whole plan. Senator Capito raised the importance of the $50 billion plan. One of the eligible uses for that is water and sewer. The President's budget cuts $5.1 billion from that pot of money. That is just one example.

The other big one is the shortfall in the current transportation program that allows for Federal 80 and State 20. My question is, do you have any plan as the Secretary of Transportation to fill that estimated $160 billion shortfall over the next 10 years?

Ms. CHAO. That whole issue about the Highway Trust Fund has to be addressed because it is solvent until 2020 because of the FAST Act.

Senator VAN HOLLEN. I just want to know if—as of today—you have a plan.

Ms. CHAO. I want to work with Congress on that.

Senator VAN HOLLEN. OK.

My last question, Mr. Chairman, goes to following up on Senator Carper's question.

The President has now said on a number of occasions that he does support an increase in the gas tax to fund this $200 billion plan. My question is very simple. Does the President mean what he says about increasing that?

Ms. CHAO. You should ask the White House.

Senator VAN HOLLEN. Have you been in meetings with him?

Ms. CHAO. Yes, I have.

Senator VAN HOLLEN. Has the President told you he supports an increase in the gas tax?

Ms. CHAO. I think you need to ask the White House.

Senator VAN HOLLEN. I am asking you.

Ms. CHAO. I do not divulge conversations with the President. I think every Cabinet member will say that.

Senator VAN HOLLEN. OK. We are talking about a $200 billion plan which many of us think is already too small to start. The leverage assumptions, many of us think, are way off, but even that $200 billion is right now a hallucination until we have a real funding source. I am just curious if the President meant what he said.

Ms. CHAO. I agree with you we need to find pay-fors. That is very important. There is no agreement on that, so we need to work on that.

Senator VAN HOLLEN. I am just wondering if the President has found a pay-for, which is what he has said, in the gas tax. But we will follow up, if he has not told you, the Secretary of Transportation.

Ms. CHAO. You will have to ask the White House.

Senator BARRASSO. Thank you, Senator Van Hollen.

On Nebraska Statehood Day, the Senator from Nebraska, Senator Fischer.

Senator FISCHER. Thank you, Mr. Chairman. It is Nebraska's birthday, and I am pleased to be here. I thank the panel for coming.

Secretary Chao, I was pleased to see that the Administration included provisions to delegate review and permitting authorities to the State. This builds on the work Congress did with SAFETEA-LU and also with MAP–21 to delegate that NEPA authority to the States.

My Build USA Infrastructure Act includes similar provisions. Under my proposal, the States would be given the purview over the design, permitting, and construction authorities currently under the Federal Highway Administration.

In your view, what do you see as the benefits of delegating these authorities to the States? I see them as being able to stretch current tax dollars so we can move forward with infrastructure projects.

What is your view, Madam Secretary?

Ms. CHAO. First of all, State and local authorities know best what the needs are within the community. We want to be a partner to the States. Two, as you mentioned, they know best also how to leverage, work, and partner with other sources of capital and revenues.

Senator FISCHER. Right. Many of us tend to focus on where new revenue is to come from. One of my deepest concerns is how we can better spend the revenue, the taxpayer money, we are already charged with spending in a responsible manner. Thank you.

As you know, Nebraska is currently in the process of assuming NEPA authority for transportation projects. Can you provide me with an update on that process?

Ms. CHAO. It has been a great pleasure to work with Nebraska. You need to go back to the Department of Transportation and let them know we have really enjoyed working with them. We hope to sign the MOU very shortly.

Senator FISCHER. Oh, good. That is wonderful to hear.

We tend to benefit from consistent formula funding for infrastructure projects in the State. It seems unlikely that Nebraska will benefit from some of the President's proposals when it comes to incentive programs or transformative projects.

Would it be correct to say the President's infrastructure proposal intends to supplement current infrastructure funding mechanisms such as the Federal Highway Administration's formula funding programs instead of replacing those programs?

Ms. CHAO. You are absolutely right. The dollars we are talking about are on top of what is in the budget ordinarily and on a formula basis.

Senator FISCHER. As I was looking through the proposal, 80 percent of the funding under the Rural Infrastructure Program would be allocated to the Governors to provide States with flexibility. You mentioned that earlier. It is based on a rural formula.

My question here is the rural formula is based on rural lane miles and rural population. But how does the Administration plan to define rural for the purposes of this funding? I know across the Federal Government there are many, many definitions for rural. What are you specifically looking at?

Ms. CHAO. You were also talking about leveraging the funding. We are very concerned about rural America. On the specific question, I have to confess, someone told me, and I cannot remember now for the life of me. Let me get back to you with an answer on that.

The whole issue as to how we define it, I think, but rather than speculate, I was told this, and I just cannot remember. I will get back to you on that.

Senator FISCHER. That would be great. For example, a lot of times, rural gravel roads are included in a formula, paved roads; the current definition used by the Federal Highway Administration, I would be interested to know if you are looking at the USDA, some of their definitions of rural as well.

If you could get back to me, that would be great.

Ms. CHAO. I will certainly do so.

Senator FISCHER. Thank you.

Also on the rural infrastructure program, the proposal included language to develop rural interstate projects. An important interstate expressway project we have in Nebraska is in our panhandle. That is the Heartland Expressway. It is part of the larger Ports-to-Plains Corridor that runs north to south across this country.

When it is completed, the Heartland Expressway will provide greater access for our agricultural products to the country and help to have this multi-lane, divided highway access. Can you elaborate on how rural interstate projects would qualify for rural funding under the President's proposal? Is there anything specific on rural interstates, especially when they connect through States from Canada to Mexico, like the Ports-to-Plains Project?

Ms. CHAO. The department has sent guidelines and principles. We did not send legislative language. That is an indication that we want to work with the Congress on how to define some of these things.

Senator FISCHER. We will look forward to working with you on that.

Thank you so much, Madam Secretary.

Secretary BARRASSO. Thank you, Senator Fischer.

Senator Whitehouse.

Senator WHITEHOUSE. Thank you, Chairman.

Welcome to both of the witnesses.

Let me start by saying we have heard a great deal in the course of this hearing about rural infrastructure. I would like to focus a little bit on coastal infrastructure. America has coasts. Some of us represent States that have coasts.

Along those coasts, we are seeing very serious predictions of very considerable sea level rise, including predictions that continue to come from the Federal Government under this Administration. Working with NOAA, Rhode Island is looking at as much as 9 feet of vertical sea level rise by the end of the century.

If that were to happen, Amtrak is gone through Connecticut. The map of my State would have to be redrawn. A considerable amount of our wastewater infrastructure, which tends to be low because of where it stands in the gravity flow, has to be relocated. Coastal highways, coastal evacuation zones, and flood maps mean an enormous amount of work has to be done to prepare for what we now have been very strongly told by the Federal Government is coming at us.

I am a bit concerned that words like coastal, sea level rise, or storm surge—things we have to live with and prepare for—do not appear in the infrastructure plan. I am hoping that as we develop this plan, you will be accommodating of that fact and of our coastal States' needs that infrastructure be designed, redesigned, and maybe even relocated for the foreseeable prospect of that kind of damage.

Ms. CHAO. Senator, you and I have talked about this issue. I know that it is highly important to you.

Senator WHITEHOUSE. I may not be the only one. There are a bunch of us that are coastal.

Ms. CHAO. You have brought this up many times with me. I had not thought about that, so let me take a look at the outline.

Senator WHITEHOUSE. Thank you. I just want there to be a little reflex in your mind that whenever you hear rural, you also think, rural and coastal, rural—oh, and coastal.

With the Corps, unfortunately, we are not much better off, Mr. James. The Corps' proposed fiscal year 2019 budget asks for about $1.5 billion, $1.481 billion to be exact, for its Flood and Coastal Storm Damage Reduction Program.

Out of that, $1.48 billion, we can identify $40 million that is marked for coastal projects. The remaining $1.44 billion is marked for inland projects. When you look at what is coming at our coasts, when you look at what NOAA is telling us to expect, when you look at what the Department of Defense is telling us to expect, when you look at the preparations the Navy has to make for its Navy bases, it is really hard for me to understand why there has to be a 37 to 1 ratio in favor of inland projects over coastal projects. How do you defend that to coastal States?

Mr. JAMES. Sir, I remember discussing this with you during my confirmation hearing.

Senator WHITEHOUSE. I can be like a bad penny; I keep turning up on this stuff. I think every one of my colleagues would be equally exercised if an essential feature of their State was overlooked completely by a factor of 37 to 1.

Mr. JAMES. My answer to you on that suggestion is that it is not 37 to 1, it may be 37 to 1 of the entire dollars, but all of the projects are processed and considered the same, whether they be coastal or inland. That tells me there is just a lot more inland projects that require flood damage assistance than coastal.

Senator WHITEHOUSE. I do not want to be in a position in which the budget does not authorize funding for coastal projects, that it is $40 million out of $1.4 billion, with the result that people do not apply because they look at that budget and say, it says in huge letters the coastal communities are not welcome here.

Maybe they are not participating because they take a look at this and say, oh, my gosh, this is all for inland and upland stuff. That is an invitation for us to stay away. I do not want to be in a situation where we are not getting projects because of the budget, and you are saying that is because there are not enough projects in there.

There is a circularity to that argument that leaves coastal communities in real trouble. I do not think coastal projects should be second class citizens in your budget by this kind of a factor of 37 to 1.

I know Mississippi is important. I know it floods. I know there are upland floods in other places. But for crying out loud, when you are looking at a 9 feet sea level rise coming along our coasts, there is a lot of infrastructure work that needs to be done to prepare for that.

I hope you will find a way to send a signal to our organization and to coastal communities that coastal projects are, in fact, welcome here and are, in fact, a key, a critical part of the Army Corps' task.

Mr. JAMES. I have no problem with that. That was not my personal thinking to begin. I was just trying to explain to you if we had 100 flood risk damage reduction projects in this country and 50 were coastal and 50 were inland, from what I understand right now, it would be equal application to those two areas.

Senator WHITEHOUSE. We will see. That is not what the signal is from the budget.

I just want to close by saying I do not ascribe this to you. I do not think you personally have any distaste for coastal projects. We have talked our way through this before. I have full confidence in your personal judgment, but the Army Corps is a big bureaucracy, and 37 to 1 is a very big signal in a budget. I will leave it at that.

Thank you.

Mr. JAMES. Senator Whitehouse, as important as it is to you, I will get with the Chief and his team, get with my team, and let me get back with you. If I have said anything that is not right or if I was right, let me make sure.

Senator WHITEHOUSE. I appreciate that. You have been great to work with. Thanks.

Mr. JAMES. Let me make sure.

Senator BARRASSO. Senator Sullivan.

Senator SULLIVAN. Thank you, Mr. Chairman.

I appreciate, Madam Secretary and Secretary James, your being here. I think the Administration's principles on infrastructure actually were a really good start. We appreciate the opportunity to work with you.

I want to reinforce what Senator Carper said earlier. I was a bit surprised by the leadership in the Senate, on my side, on the Republican side, saying they did not look like they were going to have time. We should make more time. If we do not have time, let us work weekends.

Every American believes this is important. I think it is a great opportunity for bipartisan support. I am not sure what my leadership was talking about, but I think this is a huge priority. I know it is for you, Madam Secretary, and the President. Let us get to work. We should create time. This is a good opportunity. You are seeing it here in this hearing.

Secretary Chao, I want to thank you for the Alaska visit and the summit we had on infrastructure. The Sterling Highway is now starting to move forward. It only took 25 years of permitting delays. Other than that, it is starting to look good.

In your previous comments this morning on the importance of permitting, you touched on it a bit. Can you talk a bit about this whole idea of the funding actually for infrastructure in some ways can be a function and will be a function of how aggressively we address permitting reform, meaning if you have significant permitting reform?

You know I have a bill, the Rebuild America Now Act. Mr. Chairman, I would like to submit for the record an op-ed I had with the head of the Laborers International, Terry O'Sullivan, on the importance of permitting reform.

Senator BARRASSO. Without objection.

[The referenced information follows:]

THE HILL

Infrastructure package must include permitting reform

BY SEN. DAN SULLIVAN (R-ALASKA), AND TERRY O'SULLIVAN, OPINION CONTRIBUTORS — 02/12/18 10:15 AM EST
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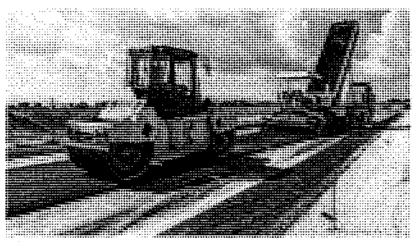

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While pundits debate the merits of various infrastructure proposals, the very real problem of permitting reform has been overlooked. Without appropriate reform, any infrastructure proposal will not get us where we need to be in order to fix these enormous problems. Almost four in 10 of our country's bridges are at least 50 years old. More than 50,000 of those bridges were structurally deficient in 2016. There are an estimated 240,000 water main breaks per year in the United States—and in some places, like in Alaska, there are entire communities that don't even have access to tap water and a flushed toilet. Much of our energy grid is at full capacity, one out of every five miles of highway pavement is in poor condition, our ports need to be modernized and deepened, and many of our schools are crumbling.

We can do much better for our citizens, and we believe that the Trump administration's focus on infrastructure presents our nation with significant bipartisan opportunities. A key to the success of any infrastructure package has to involve a desperately needed reform of our country's broken public-works and environmental approval process – a process that adds years and costs to projects – sometimes resulting in the death of those projects altogether.

While most of us can agree that a thorough permitting process is important and necessary for the health and safety of our citizens, for too long, the regulatory and permitting process has been abused by some groups and even by federal agencies to obstruct and delay critically needed projects. The National Environmental Policy Act (NEPA) was passed in 1970. The act mandates environmental impact statements (EISs) be conducted on projects that have significant impact on the environment. EISs were meant to increase public input and transparency for infrastructure developments. Thirty years ago, an EIS was expected to take no more than 12 months to complete, and usually only consisted of a few hundred pages. That process now takes four to six years, can cost millions of dollars and often involves thousands of pages, resulting in an opaque process accessible only to lawyers and bureaucrats. Public input and transparency are certainly not served by this broken process.
All of this is even before the substantive permitting process begins, when local governments and private businesses then have to navigate reams of

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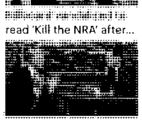

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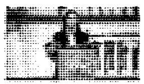

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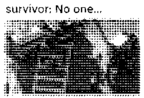

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federal regulations.

Let us provide some real examples of how the process can delay projects. After 14 years, the expansion of Gross Reservoir in Colorado is still waiting on final federal approvals. It took almost 20 years to permit the Kensington gold mine in Alaska. It took four years to construct a new runway at Seattle-Tacoma International Airport, but it took 15 years to get the pre-build permits. TransCanada applied for permits in 2008 to build the Keystone XL pipeline. The project only received approval under **President Trump**'s administration in 2017.

The list goes on. Every day spent waiting for a permit to be approved is a day of lost wages for our hard American workers—wages that could be spent on putting food on their families' tables, roofs over their heads, putting their children through college, and saving for retirement. Every day that we spend needlessly fighting over approvals to be able to fix our roads, our bridges, and a water system, is another day in which economic growth opportunities are missed and our nation's crumbling infrastructure gets worse.

So what's to be done? A bill that Sen. Sullivan introduced, the Rebuild America Now Act, provides a detailed and sound blueprint for fixing the problem.

The bill will provide realistic deadlines for NEPA reviews, expands exclusion of those reviews for emergency and vital infrastructure projects —like the rebuilding currently underway in areas hit by hurricanes, as well as in communities in California that have been decimated by wildfires. Additionally, the bill simplifies NEPA documents and limits needless litigation intended only to delay projects, and has a specific section on streamlining the application of much needed energy projects that power our country.

One of the many lessons we learned from the American Recovery and Investment Act of 2009 is that spending federal money on projects without a sound and streamlined permitting process won't provide jobs and benefits in the short term and will end up wasting tax payer money in the long run. There was a "shovel ready" requirement to receive some of the funds, but as President Obama said in 2011, "Shovel-ready was not as shovel-ready as we expected." As a result, money was often inefficiently spent on projects that weren't necessary or have since been abandoned and or mired in controversy.

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Fixing our infrastructure in the most effective, efficient way is not a Republican or Democratic issue. It's an issue that effects all Americans—particularly the American worker. Americans were proud to build the Pentagon in 16 months, the Hoover Dam in five years, and the 1,500-mile Alaska-Canadian Highway in only eight months.

America used to be known as a country that built great structures on time and on budget. If real federal permitting reform is part of a broad-based infrastructure initiative, we can be that country again.

Sullivan is the junior senator from Alaska and Terry O'Sullivan is president of the Laborers' International Union of North America (LIUNA).

TAGS DONALD TRUMP

Senator SULLIVAN. Madam Secretary, can you touch on that, how permitting reform is actually, in some ways, a driver of how much money we are going to be able to get with regard to particularly private sector money into broader infrastructure in America?

Ms. CHAO. As was mentioned, with every year's delay in permitting, there is an increase of a minimum of 3 percent. Project costs increase every year the longer they are stretched out.

Second, the permitting aspect, we are not talking about not protecting the environment; we all care about the environment. We are talking about common sense ways to reduce duplicative, redundant, sequential permitting which can actually be done concurrently, or we can have sister agencies share information.

As of now, within the Department of Transportation, one office in Transportation does their own study; they do not share with another office at the Department of Transportation, thereby lengthening the whole process. The other thing also with permitting is the private sector, which is very eager to finance a lot of these public infrastructures, would be deterred if indeed permitting were to add years of delay and increase their risk.

Senator SULLIVAN. On highways, the average time it takes to permit a bridge in New Jersey, New York, or Rhode Island is like 6 or 7 years. If we could bring that down to 1 year or a year and a half, you will have less uncertainty and more private sector dollars.

By the way, as you know, Madam Secretary, the UK, Canada, and Australia all permit infrastructure projects in a year, year and a half, or 2 years. This is not something radical. The radical position is how delayed we are. Isn't that the case?

Ms. CHAO. Yes. In fact, when you talk about Sterling Highway, when I went to visit Alaska, it was actually 35 years in the making, to get that to a remote Alaskan village that really needed help.

Senator SULLIVAN. You are not going to get private sector money.

Thank you. We want to continue to work with you on that.

Secretary James, I wanted to talk briefly about wetlands. My State has over 60 percent of the Nation's wetlands—60 percent in Alaska for the whole country. We have wetlands totaling approximately 270,000 square miles. That is larger than the State of Texas.

When we have Section 404 permitting requirements with the Corps and EPA, and the mitigation requirements that come with that, it is almost always a disproportionate cost and delay with regard to infrastructure in Alaska.

We will have some questions for the record. I wanted to ask you very quickly, a number of us have been looking at the Clean Water Act, relevant regulations from the Executive agencies from both Democrat and Republican administrations previously that give Federal agencies sufficient flexibility and latitude to take Alaska's unique circumstances into consideration of wetland permitting processes because the vast majority of the wetlands in the country reside in my State.

It just takes an inordinate amount of time to get through the Section 404(c) permitting. Can I get your commitment, Mr. Secretary, to work with us on these kinds of flexibilities that we believe already exist in the regs and the laws, to work with you and your office on this kind of flexibility on Section 404(c)?

Mr. JAMES. Yes, sir. I would be happy to.

Senator SULLIVAN. I want to thank you again, and General Semonite, on the work you have done with regard to the Port of Nome. You may have heard just recently there was a cost share agreement between Nome and the Corps for the study of the port there. I think we have made good progress on that. I appreciate that.

Mr. JAMES. Thank you.

Senator BARRASSO. Thank you, Senator Sullivan.

I would like to point out the vote is going to start in about a minute. We still have four people to ask questions. We have 5 minute rounds. I am going to have to ask you to please hold it within the 5 minutes for each of those.

Senator Markey is next.

Senator MARKEY. Thank you, Mr. Chairman.

I welcome you here, and clearly we want to have a huge infrastructure program that opens up in our country. We need it desperately.

The way I look at the formula in the Trump proposal is that it takes $200 billion in existing Federal infrastructure money and repackages the same money as a new program. Then, in step two, it flips the formula from 80 percent coming from the Federal Government and 20 percent from local and State government to 20 percent coming from the Federal Government and 80 percent that would come from the State and local governments.

Maybe it is like the miracle of the loaves and fishes; it did work 2,000 years ago. But I just do not think it is going to work here where the local governments cannot come up with 80 percent of the money and the reason we need national infrastructure bills is that they need the help and they need the Federal Government to come in.

I will be honest with you. My fear is I just think that Wall Street will say, we will come in and help, but they will have to be paid. That is going to be tolls they are going to want to impose on drivers, on communities as a way of getting paid. That is how Wall Street operates.

As a result, it changes the relationship between the infrastructure in our country and ordinary citizens. I just think they will wind up being tipped upside down and having money shaken out of their pockets ultimately to pay for infrastructure that historically, under the 80 Federal and 20 local funding, was subsidized by the government in order to make sure the roads are there for everyone.

I have a big problem with the math. I just do not think it is going to work. I agree when Wharton and the Heritage Foundation agree upon something, and they are agreeing with Ed Markey, that there is new recombinant political DNA that is out there that requires a better explanation of how these projects will get built.

I do know that Wall Street would love to have the National Environmental Policy Act to just be gutted and be dramatically watered down. That is what this infrastructure proposal does. It takes the constitution of the environment for the last 50 years, the National Environmental Policy Act and makes fundamental changes.

One, it would cut the amount of time the public has to sue over bad projects from 6 years down to 150 days. That would be great if you want to be a Wall Street firm and get a quick return on your investment.

However, if you are a community, and all of a sudden you hear there is a brand new road coming through a whole section of town, and you are told you have 150 days to mount a battle against a Wall Street law firm that is just going to truncate your rights, that is going to be, I think, something that is very disastrous for local communities all across the country.

Second, the bill also expands the ability of agencies to simply decide that certain types of projects have no environmental harm at all; the agency decides it. It is a single agency, by the way. One agency would make the decision.

Secretary Zinke would be able to decide that pipelines can go through parks, and the other agencies would not be able to get into the middle of that. Similarly, the EPA would be truncated in their ability to be able to make decisions that were appealable because the Secretary of Transportation would make all of these decisions, and the agencies would not be involved.

I just have a problem with the formula. I would like to give you a chance to respond to it because that is the core of it. The money is not sufficient, and the environmental reviews are truncated.

Ms. CHAO. I do not have that.

Senator MARKEY. Whatever you can do.

Ms. CHAO. I think it is important to emphasize that we want to do this on a bipartisan basis. As we go forward, these are issues you are concerned about. Let us talk about them.

Senator MARKEY. I still have 12 seconds to say that if it is not changed, if there isn't a fundamental change made, then citizens are going to wind up with their environmental protections being watered down. They are going to be tipped upside down and have money shaken out of their pockets to pay for the fees in our country.

Ms. CHAO. As I mentioned, we have no intention of diluting any environmental protections. If you look at the bureaucratic way in which permitting occurs, a lot of it does not make sense. They are redundant, duplicative, replicate one another, and discourage communications among sister agencies. There are many, many ways in which the permitting process can be streamlined and improved without compromising on environmental protection.

Second, on the roads and bridges, the 80-20 rule only applies to interstate; 84 percent of the roads and bridges that are in each State are funded by the State. The Federal Government's share is only 16 percent. Overall, infrastructure is traditionally actually funded by the States. It is only for the interstate that the Federal portion comes in.

Senator MARKEY. Which is the essence of this.

Ms. CHAO. The infrastructure is everything actually. The infrastructure proposal is whatever a local community wants. They decide and make a targeted appeal to this competitive process. The more creative and innovative they can be in financing, meaning if they can get more private sector and other party involvement, they actually will be in a better position to win the Federal grants.

Senator BARRASSO. Thank you, Senator Markey. I appreciate your questions.

Senator Boozman.

Senator BOOZMAN. Thank you, Mr. Chairman.

Thank you for being here. We appreciate your hard work. We also appreciate the fact that you are honoring your commitment to make yourselves available periodically. It is very, very helpful.

Secretary Chao, I would like to ask you a question. It is not under your purview in the sense that this is a water question. However, since you are such a major player in the infrastructure package, I really think we are in a situation now where you cannot think in terms of just one thing.

We can put in our roads, runways, and railways, but if you do not have the water infrastructure to back that up, it simply does not work. We are in a situation now where things are aging, and there is a tremendous need.

Senator Booker and I have introduced the Securing Required Funding for Water Infrastructure Now, the SRF WIN Act. We have had tremendous success with outside organizations and multiple sponsors in Congress.

We are trying to make it such that we allow the State Revolving Funds—the SRFs—to bundle multiple drinking water and wastewater projects together and submit them to the EPA for approval through the Water Infrastructure Financing and Innovation Act, the WIFIA Act, the WIFIA Program.

Because every State is AAA bond rated, and all of our projects have ratepayers, the SRF WIN Act really answers some of the concerns of Senator Markey in the sense that we can have tremendous leveraging ability. These are not grants. These are actually getting paid back.

As a result of that, I really would encourage you, as you are putting together these things, to look at this. Hopefully, the Administration can support, and hopefully you can support it in an effort, as I said, to take the dollars we can and leverage as much as we can in a common sense way.

Ms. CHAO. I will bring this back to the White House and also the EPA Administrator.

Senator BOOZMAN. Good. Thank you very much.

Secretary James, it is good to have you here also.

Arkansas is a rural State that relies heavily on agriculture, as you know very well. In fact, we are the No. 1 rice producing State in the country, third in cotton, and the list goes on and on. Ag is No. 1 in our State, as it is in so many other States throughout the country that we forget about, and adds about $16 billion to our economy. Many hardworking Arkansans rely heavily on the inland waterways and ports to ship their crops across the Nation and export them all over the world.

Tell us the consequences for rural and agriculturally dependent States if we do not invest in our Nation's inland waterways and ports. Do you feel that the Administration's principles for infrastructure properly address America's inland waterways?

Mr. JAMES. I do feel that the infrastructure bill does address the waterway system. His submission of that bill to us allows us to be able to move forward. It does cover our inland waterway infrastructure.

You and I know this. For the other members and for the record, if the inland waterway of the McClellan-Kerr Arkansas River shuts down, everything from mid-Oklahoma down to the Mississippi River would be shut off. It is a huge amount of prosperity, a huge amount of interstate commerce that comes from that.

The same goes for every other running navigable stream in our country. A lot of them are provided by locks and dams as most of our inland waterway infrastructure is in locks and dams. The Mississippi below Cairo, Illinois, is not; it is a free flowing stream which requires a lot of maintenance due to the major flooding that the lower Mississippi Valley receives.

Without the navigation, there is no way. Grain would be spoiled on the ground, and our balance in trade would quickly go out the back door. Because, as I understand it, for years and years and years now the balance of trade has been supported by the agriculture community.

Senator BOOZMAN. Thank you very much.

Thank both of you again for your hard work. We appreciate it.

Senator BARRASSO. Thank you, Senator Boozman.

Senator Booker.

Senator BOOKER. Thank you very much.

Out of respect for my colleague, I want to try to go really quickly.

First, just a hearty thank you to both of you for your testimony, your commitment to your jobs, and the mission of our country.

Secretary Chao, I am grateful to have you here again. Thank you for your willingness to engage with my team and the other four Senators dealing with this Gateway project. You have been incredible. We had a meeting at the White House with the President just on this issue. You came to Senator Schumer's office for what I thought was a very constructive dialogue.

You indicated to Senator Gillibrand that to deal with some of these issues, we probably need to get our teams together again. Would you be willing to commit to meeting again with Senator Schumer and us as we did a few months back?

Ms. CHAO. Of course.

Senator BOOKER. Great.

Ms. CHAO. I would also add that Gateway is not one project. There are nine projects involving $30 million.

Senator BOOKER. Multiple projects. You and I are both familiar and do not need to state for the record, but time is running.

The second thing is, you committed also that you will come up and visit us and see the project. We have had Republicans and Democrats do it. It is stunning to go through the tunnels and see the crisis. That commitment stands, right?

Ms. CHAO. I have been trying to do that.

Senator BOOKER. I know. You and I have been trying to work our schedules.

Third, the multiple projects that are involved, I heard the back and forth between you and the Senator on loans, how they are counted and the like. Is that the standard now for all projects in

America that the Federal commitment does not count as a State commitment, the loans? Is that new?

Ms. CHAO. I am not so sure this is new. It has always been that way, No. 1. Second, we would disagree; there was never any Federal commitment. It was a verbal commitment, a verbal sentence given at a rally, a political rally no less. There was no commitment from the Federal Government.

Senator BOOKER. No, no, I understand. But the downgrading is because of?

Ms. CHAO. It has always been this way. Loans are not counted as equity.

Senator BOOKER. That contradicts your Web site. Can I read what your Web site says?

Ms. CHAO. OK.

Senator BOOKER. From the FHWA Web site, it says "TIFIA, the proceeds of a secured TIFIA loan, will be used for any non-Federal share of project costs required under Title 23 or Chapter 53, Title 49." That is what your Web site says. It contradicts what you are saying here.

Ms. CHAO. Then I need to look at it. Thank you for bringing it to my attention. I will take a look at it.

Senator BOOKER. OK. Take a look at that. We should have a fair standard because I know these programs. This would crush every area of our country if you shifted that to what you represented to the Senator. Your Web site says this, and my familiarity with that.

Ms. CHAO. Thank you for bringing it up. That is not my understanding, but let me take a look at it.

Senator BOOKER. I really appreciate that.

The last thing is to champion the great work you guys are doing. The Department of Transportation's efforts on the Gateway Tunnels' environmental impact statement has been amazing and inconsistent with what everyone has been saying, let us cut the regulatory time.

My understanding is the Gateway Project Development Corporation has finalized their environmental impact statement and is on track for a final EIS pending DOT approval at the end of March. This is an incredible achievement. They are literally cutting in half the typical amount. This is actually you all cutting bureaucracy and cutting time. I just want to make sure of commitment by the Department of Transportation and everything is on schedule to achieve something we all can brag about as testimony to the Trump administration's cutting red tape. Can we make sure we get that done by March 31 as was committed?

Ms. CHAO. I would love to promise you that. I don't know whether I can. I will take a look at that.

Senator BOOKER. OK. Because we have made incredible time.

Out of respect to my colleague, I will end early.

Ms. CHAO. Thank you.

Senator BARRASSO. Senator Duckworth.

Senator DUCKWORTH. I thank Senator Booker for being so generous with his time.

Thank you, Mr. Chairman and Ranking Member Carper.

Secretary Chao and Secretary James, it is so nice to see both of you again.

Secretary Chao, I see a lot of philosophical similarities between the President's infrastructure proposal and the goals of DOT's Infrastructure to Rebuild America Grant Program established last year, the INFRA Grant Program.

I understand both seek to align Federal investments with national and regional economic goals. There is some emphasis on leveraging Federal funds with non-Federal funding, including public-private partnerships and also to promote innovative solutions to improve project delivery. Is it fair for me to say that?

Ms. CHAO. Yes.

Senator DUCKWORTH. As you know, the 75th Street Corridor Improvement Project in Chicago, which is part of the CREATE Project, meets all of INFRA's program goals. The project provides robust national and regional benefits, would increase national freight and passenger railway activity, and is reflected by the support of nine different Midwestern States, each of the Class I railroads, and numerous corporate interests.

In fact, a study by the University Illinois highlights that three-quarters of the CREATE Program's impacts would actually occur outside of the Midwest. More than 65 percent of the project costs are already committed through a public-private partnership.

Given the robust support and alignment of the goals of all levels of government, the environmental review and record of decisions are also complete, so the project can move forward as soon as you give it the green light. I am asking that you give this critical project your full consideration as you finalize the INFRA grant awards moving forward.

Ms. CHAO. I will certainly do so.

Senator DUCKWORTH. Thank you. Do you have a sense of when the INFRA awards might be announced?

Ms. CHAO. We have to get the TIGER grants out which will hopefully be in the next 2 to 3 weeks. After that, then we will turn to the INFRA so hopefully by the summertime if not sooner.

Senator DUCKWORTH. OK. Back to the infrastructure proposal, the Administration is calling the plan a major investment in our Nation's infrastructure. Yet, as my colleagues have noted, the President's fiscal year 2019 budget cuts more infrastructure than would be invested.

How is this a major infrastructure investment when you propose spending less than we already do?

Ms. CHAO. I think this is a policy difference. We can talk more about that. What is important is that this infrastructure proposal needs to be done on a bipartisan basis. If we can separate out from the budget, go forward, and take a look at the infrastructure, we very much look forward to working with both the majority and the minority in the Senate and the House.

Senator DUCKWORTH. We are going to need more than $200 billion to be able to move forward.

Ms. CHAO. Absolutely we are. That is where we need to have the private sector involved, and we need to leverage the funds.

Senator DUCKWORTH. Also, I would like to state that I join my colleagues who mentioned their concerns for our livestock haulers with the EOD deadline coming up. I have heard from people in Illinois who haul cattle, hogs, and even equine. This is a real issue in our ag States. I would appreciate your attention to that.

Mr. James, as I know you are aware, our inland waterways have long enjoyed a Federal-private partnership through a diesel fuel tax paid by barge operators that covers 50 percent of the cost associated with maintaining and modernizing our locks and dams.

I was troubled to hear that the Administration's budget seeks to alter that longstanding relationship by promoting a per vessel fee to fund our aging locks and dams. Again, as you know, that is a non-starter for commercial operators who would bear the cost.

Would it be easier and more practical to consider alternatives that allow the Corps to keep some of the revenues that you already generate but are required to deposit into the U.S. Treasury like recreational fees and hydropower revenue?

For example, with the hydropower revenue, you generate around $1.5 billion that goes into the Treasury. If we could keep a small percentage of that within the Corps of Engineers, you could actually apply some of that to some of the associated cost with the maintenance.

Mr. JAMES. Senator, that is an interesting proposal that I have heard many times throughout my career, even before I became the ASA. It is a very interesting proposal. I would be willing to look at some numbers with you or the Committee at any time that would be of interest to you. It is very interesting to me. Thank you for that question.

Senator DUCKWORTH. Thank you very much for your interest.

That is all the questions I have.

Senator BARRASSO. Thank you very much.

I appreciate the members being here.

I have a request for a submission for the record. We, at the Committee, received numerous requests for submissions for the record from different organizations impacted by the infrastructure policy.

In order to ensure the full breadth of the policy options are included in the record, I ask unanimous consent that they be added to the record.

Without objection.

[The referenced information follows:]

February 5, 2018

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Chuck Schumer
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Paul Ryan
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
Washington, DC 20515

Dear Majority Leader McConnell, Minority Leader Schumer, Speaker Ryan, and Minority Leader Pelosi:

As leading associations in the construction industry, we write to express our support for urgent and necessary reforms to our nation's broken immigration system and to thank you for your leadership in prioritizing this issue in the 115th Congress. We are encouraged by the momentum that is building on Capitol Hill and in the White House to pursue key reforms that enhance our security and promote America's economic prosperity. However, border security measures must also be accompanied with broader and bipartisan reforms to immigration policy that addresses the workforce needs of our nation's employers.

The recovery of the United States' economy and renewed investment in residential, commercial, and infrastructure development over the last few years has been a welcome change for construction businesses. However, this turnaround is exacerbating already significant labor challenges in the industry. Systemic labor shortages rank at the top of companies' lists of most significant problems and are already contributing to rising costs in construction. Despite our efforts to recruit and train American workers, the construction sector faces a very real growth and affordability crisis if work is increasingly delayed or even cancelled due to a lack of domestic labor.

Our organizations unequivocally oppose illegal immigration, and for almost two decades have repeatedly asked Congress to address the problems in the legal immigration system in the U.S. to create a sensible and practical way for our industry to access legal foreign-born workers. True immigration reform must include a mechanism for construction industry employers to get the temporary foreign workers they need when American workers are unavailable. Our industry must be able to access a program where we can hire legal, foreign-born workers in order to supplement the U.S. construction workforce when the economy needs them.

Nowhere is the worker shortage more starkly illustrated than in the hurricane recovery efforts taking place in Texas, Florida, Puerto Rico, United States territories in the Caribbean, and in the wake of devastating fires and mudslides in California. Unfortunately, current temporary worker programs such as H-2B offer almost no support to the construction industry, and do not reflect the real needs of an industry that operates year-round in the United States. As a solution, we strongly urge Congress to establish a new market-driven visa for temporary foreign workers to enter the United States when the economy needs them, and fewer when our economy contracts. A successful guest worker program will help alleviate the current labor shortage in the construction sector, quicken our ability to rebuild communities and infrastructure from a spate of natural disasters, and support the overall economic growth of this nation.

We also recognize the need to establish a fair, efficient and workable national employment verification system that provides confirmation of the work authorization status of prospective employees but that also ensures liability protections for employers who comply in good faith. A workable verification system will provide one set of rules for employers to follow no matter their location in the United States, will give robust liability protection to employers who use the system in good faith, and will ensure that all U.S. employers are held responsible for the work authorization status of their direct employees. Our organizations continue to strongly support the reintroduced *Legal Workforce Act*, which recognizes the concerns of the business community by including strong safe harbor protections for employers and, of significant importance to companies operating in the construction field, continues the requirements of current law by mandating all employers be held responsible for the work authorization status of their direct employees, maintaining current liability for employers who knowingly use subcontract labor to circumvent immigration law. We urge both the House and Senate to support the *Legal Workforce Act* as a part of any effort to expand employment verification requirements in the U.S.

At the same time, Congress must address the presence of the undocumented population in a respectful, common-sense manner that aids – not exacerbates – the workforce needs of industry sectors like construction. We believe there is an opportunity to create an earned path toward legal permanent status or citizenship for undocumented workers who meet certain requirements, particularly those "Dreamers" who were brought here as children and have voluntarily come out of the shadows to pursue an education, establish careers, and serve our country in uniform.

Other foreign-born workers have been granted provisional legal status and work authorization that has allowed them to remain in the United States for decades, but their ability to continue doing so is in jeopardy. An estimated 51,000 individuals holding temporary protected status (TPS) from countries including El Salvador, Haiti, and Nicaragua work in the construction industry and have filled a small part of larger workforce shortage gaps. With TPS designation for these countries set to expire soon, the sudden exodus of legally authorized workers from the construction sector will only exacerbate existing labor shortages and lead to project delays at a cost to taxpayers and consumers. Congress has the opportunity to act now to ensure these hardworking individuals continue to participate in the American workforce at a time when they are most needed. We urge Congress to work with the administration to find an opportunity to extend TPS status for deserving nations, and to provide an opportunity for TPS designees who are productive members of the workforce to remain in the United States.

Our industry recognizes and supports efforts by lawmakers to address the nation's interest and needs in the area of border security. However, we are greatly concerned with political moves and government threats to put hard-working American companies in the middle of the political fight on the issue. Border security measures that include the construction of a wall on the southern border must protect construction contractors from discrimination or retaliation by government officials intent on highlighting their displeasure about the underlying policy. Recently, state and local governments have introduced efforts to discourage federal contractors from building a southern border wall by blacklisting firms from future state or local public works contracts. This would set a dangerous precedent and, unless unchecked, emboldened state and local officials could further discriminate and retaliate against companies that perform any number of critical, national security tasks for the federal government. These proposals undermine the constitutional supremacy of the federal government and federal immigration legislation must ensure necessary protections for fair and open competition when it comes to U.S. government contracts.

Each of the aforementioned issues and reform proposals are important in their own right, but must all be a part of a broader effort to successfully address our nation's persisting immigration challenges while preserving our growing economy. Our organizations stand ready to work with you on advancing immigration reform that enhances security and also addresses our country's workforce needs.

Thank you for your consideration of our views.

Respectfully,

Associated Builders and Contractors

Associated General Contractors

Leading Builders of America

National Association of Home Builders

TRUCKLOAD
CARRIERS
ASSOCIATION

February 27, 2018

The Honorable John Barrasso, Chairman
The Honorable Thomas Carper, Ranking Member
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Chairman Barrasso and Ranking Member Carper:

The Truckload Carrier's Association (TCA) represents the truckload segment of the motor carrier industry, which is comprised of dry van, refrigerated, flatbed and intermodal carriers. Our members operate in the 48 contiguous states, as well as Alaska, Mexico and Canada. As a major part of an industry that has over 524,000 companies operating millions of power units and generates more than $38 billion in annual revenue, TCA and its trucking company members are concerned over efforts to include language on increasing truck-trailer lengths into a forthcoming infrastructure package.

As you know, our country faces the tremendous challenge of supporting the "backbone of the U.S. economy", which can simply be defined as our nation's infrastructure. The process, undertaken by this committee, will be tasked with developing sound solutions geared towards improving upon a maze of roadways, waterways and rail transit that many have deemed in disrepair, crumbling and a far cry from the premiere freight delivery platform that it had once been. As the committee embarks on this unenviable task, many theories as to how best address our nation's truck size provisions will surely be brought to the forefront when discussing productivity solutions that aid in freight delivery. Unfortunately, the theory that the trucking industry will gain productivity through increased truck-trailer sizes is a notion which will benefit only a small population of our nation's freight industry.

The truckload segment of the trucking industry is vast, representing over 524,000 motor carriers equating to roughly 75 percent of the freight moved by truck, based on revenue. In saying that, our industry recognizes the benefits that would be bestowed upon our Less-Than-Truckload (LTL) counterparts by adding additional cubic feet of freight space and how those benefits add to productivity, however, we would be remiss if we did not mention that the truckload industry would yield little to any advantage of the added cubic space that a Twin 33 foot trailer would bring about. Due to the vast differences in freight delivery models, the metric of mandating Twin 33 foot trailers almost exclusively benefits LTL freight, thus putting the truckload segment of the industry at a competitive disadvantage.

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The trucking industry is deeply divided on this issue. For many years, truckload and LTL have been diametrically opposed on length increases, even as the industry has modernized and changed configurations in the past. When the trucking industry experienced a previous trailer conversion from a 48 foot trailer to 53 foot trailers, the financial burden was dramatic and any change from 28 or 53 foot trailers would be no different. Due to pricing models and logistics configurations, the truckload segment of the industry would face little to no opportunity to regain any dollars invested in new 33 foot trailers. A change to 33 foot trailers would be considered voluntary, the shipping community will automatically transition to carriers with the most cubic space for their goods, rendering our nation's fleet of 53 foot trailers antiques.

Intermodal truckload carriers will be put at a disproportionate disadvantage if a shift from 28 to 33 foot doubles were to be mandated. LTL advocates view this increase in length and freight capacity as an opportunity to remove trucks from our roads. You will indeed find that twin 33 foot trailers will do the exact opposite. In an effort to supplement and improve upon intermodal operations, our nation's railroad container cars have been developed to accommodate the most prominent trailer configurations that exist within trucking today, the 28 and 53 foot trailers. You will soon realize that any change to these prominent trailer sizes will not only render existing truck trailers obsolete, but its corresponding railroad counterparts as well.

Most noticeably absent from the discussions surrounding 33 foot trailers is the effect that the configuration will have on our population of drivers. As an industry that continually searches high and low for qualified drivers to operate our vehicles, the driver ramifications of operating fleets consisting of 33 foot trailers would be severe. In order to operate a doubles configuration, drivers must receive a doubles/triples endorsement on their commercial driver's licenses (CDL), by completing further training and testing. Not only will new drivers entering the industry have to obtain the endorsement, but we will have to retrain our existing and ever shrinking pool of drivers. We believe that the increased freight capacity of a double 33 foot trailer configuration will render the single 53 foot trailer obsolete, which will drive the need for retraining drivers.

The truckload industry and its long haul operations are logistically set up for longer trailer configurations rather than articulating smaller trailers bound by dollies. The majority of loading docks are designed to accommodate trailers that travel in reverse to these docks. The Twin 33 foot trailer configurations have proven problematic to back up and would need to be separated prior to backing, an arduous task for drivers working for a long haul operation. The potential for driver injury when separating trailers and its 3,000-lb converter gear is high and would jeopardize any improvements to the health and well-being that our industry strives to make.

The issue of truck parking will escalate if double 33 foot trailers are mandated. Truck parking is at a premium and can be very difficult to obtain, especially in a safe area. Current parking facilities are equipped to accommodate single 53 and double 28 food trailers. These facilities are often full, forcing drivers to park in unsafe areas like highway entrance and exit ramps and residential areas. Large scale safe parking facilities for double 33 foot trailers do not exist at this point in time. We will see more trucks parked in areas and circling local roads to find a safe area to park.

As representatives of an industry tasked with delivering our nation's freight and doing so safely, the Truckload Carriers Association pledges to partner with our congressional leadership on discovering solutions that truly benefit our industry and the American public. Discussions surrounding the topic of productivity are certain to propagate over the coming months and years and TCA seeks to partner with all who have a vested interest in freight delivery solutions that work for everyone involved.

We urge you, as the largest segment of the trucking industry, to oppose any increase in truck-trailer length, as it would be detrimental to our business model and the efficient movement of freight throughout North America.

Sincerely,

John Lyboldt
President

ITS AMERICA

February 28, 2018

The Honorable John Barrasso
Chairman
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

The Honorable Tom Carper
Ranking Member
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

Dear Chairman Barrasso and Ranking Member Carper:

In anticipation of the Committee on Environment and Public Works upcoming hearing on "The Administration's Framework for Rebuilding Infrastructure in America," the Intelligent Transportation Society of America ("ITS America")—the nation's leading association focused on the technological modernization of our transportation system through the research and deployment of intelligent transportation systems—offers its recommendations for an infrastructure bill. ITS America's unique membership includes cities, states, Metropolitan Planning Organizations, established and emerging private sector companies in the automotive and technology industries, research organizations and academic institutions.

Once the envy of the world, our increasingly outmoded roads, bridges, transit, freight, and intercity passenger systems are struggling to move the nation's technology-driven economy. Investment in far-sighted intelligent transportation technologies will enable scarce infrastructure funds to reach farther and with longer-lasting results. As owners, operators, builders, innovators, and users of transportation infrastructure, we urge Congress to pass, and the Administration to support, an infrastructure bill that prioritizes investments in intelligent transportation technologies. ITS America recommends that an infrastructure bill should:

- *Leverage existing FAST Act programs:* Increase funding for FAST Act programs. Intelligent transportation technologies, including vehicle-to-infrastructure, are eligible uses of most FAST Act highway program funds. Specifically increase funding for the Intelligent Transportation Systems Program, Advanced Transportation and Congestion Management Technologies Deployment Program, Technology and Innovation Deployment Program, and for the Surface Transportation Block Grant program, and Congestion Mitigation and Air Quality program – flexible programs that often fund intelligent transportation deployment activities.

- *Create grants for emerging technologies that support congestion relief:* Provide new funding for intelligent transportation deployment activities that support congestion relief. The program would include both formula and grant funding. Eligible projects would include capital and operational investments that improve system safety and performance. Examples include priced managed lanes; transportation demand management programs; strategic transit investments; advanced parking, freight delivery, and incident management systems; and programs to support the deployment of connected and autonomous vehicles, including vehicle-to-vehicle and vehicle-to-infrastructure communications technologies.

- *Expand opportunities for smart communities:* Build on the successes of the 2015 Strengthening Mobility and Revolutionizing Transportation (SMART) Cities Challenge administered by the U.S. Department of Transportation by including new federal funding to expand opportunities for communities – large and small/urban and rural – to compete for resources that will fund innovative and sustainable smart transportation projects. Projects should emphasize maturing technologies and performance goals. Incentivize the connection of smart cities and assist in the advancement of testing and deployment of autonomous vehicles. These investments have a great return on investment versus traditional infrastructure investments.

ITS AMERICA

- *Increase development of Electric Vehicle (EV) charging infrastructure:* Additional development of EV charging station corridors based on federal and state incentive projects as well as public private partnerships. Continue to look at new technologies such as inductive charging to speed the deployment of EVs.

- *Develop additional opportunities for broadband deployment:* Provide new federal funding for broadband in unserved areas—both rural and metropolitan—to support the deployment of intelligent transportation applications that depend on connectivity.

- *Provide investments to stabilize the Highway Trust Fund and more resources for intelligent transportation technologies:* Provide new and long-term investments to stabilize the Highway Trust Fund, increase federal funding for intelligent transportation technologies, and provide a multi-faceted approach to leveraging public and private resources.

The nation is entering a technology revolution that will define the way people, goods, and services move for decades to come. It is a new transportation era as dramatic as the period where the car supplanted the horse and buggy. The nation must deploy intelligent transportation technologies on a large scale to remain competitive in an increasingly global economy. ITS America believes the infrastructure plan is the vehicle to increase the nation's investment in the transportation technologies that will shape mobility for decades to come.

We thank the Committee on Environment and Public Works for its leadership on the FAST Act, which made technology investments eligible across highway programs. We stand ready to work with the Committee on an infrastructure bill that builds on those investments.

Sincerely,

Shailen Bhatt
President and CEO
ITS America

Cc: U.S. Senate Committee on Environment and Public Works
Ron Thaniel, Vice President, Legislative Affairs, ITS America, rthaniel@itsa.org

Intelligent Transportation Society of America Board of Directors

AAA, Arizona Department of Transportation, California Partners for Advanced Transportation Technology at University of California Berkeley, California Department of Transportation, Conduent, Cubic, General Motors, GRIDSMART, HELP Inc., Kapsch TrafficCom, Bay Area Metropolitan Transportation Commission, National Renewable Energy Laboratory, New York City Department of Transportation, Pennsylvania Department of Transportation, Qualcomm, Serco, Southwest Research Institute, State Farm Insurance, Texas A&M Transportation Institute, Toyota, Utah Department of Transportation, Verizon, and Virginia Tech Transportation Institute

February 28, 2018

The Honorable John Barrasso, Chairman
The Honorable Thomas Carper, Ranking Member
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Chairman Barrasso and Ranking Member Carper:

As you prepare for tomorrow's hearing, "The Administration's Framework for Rebuilding Infrastructure in America," our broad and diverse coalition would like to express our strong concern about a major threat to our Nation's infrastructure – relentless efforts to increase federal truck size and weight limits. These continuing attempts include proposals to increase current federal and state weight and length limits, to create "pilot programs," and to carve out special interest exemptions for certain states or industries. Any proposals to provide desperately needed improvements to our country's roads and bridges will be undermined if bigger and heavier trucks are allowed on the already-crumbling infrastructure. We respectfully request that this letter be included in the hearing record.

Truck crash deaths have risen dramatically in recent years. Since 2009 there has been a staggering 28 percent increase in deaths from large truck crashes. In 2016 alone, more than 4,300 people were killed in large truck crashes. This amounts to a major airplane crash every other week of the year. Additionally, data from 2015 (the most recent year available) shows that 116,000 people were injured in truck crashes – representing a 57 percent increase since 2009. This death and injury toll would not be tolerated in any other mode of transportation. Further, truck crashes come with a significant economic burden. The cost to society from crashes involving commercial motor vehicles was estimated to be at $118 billion in 2015. This is completely unacceptable and represents a major public safety problem.

Allowing the operation of bigger and heavier trucks runs counter to the goal of improving our Nation's infrastructure and will only cause further degradation. America's roads continue to receive a grade of "D" from the American Society of Civil Engineers. One of every five miles of highway pavement is in poor condition and there is a significant and increasing backlog of rehabilitation needs. Additionally, one in eleven of the Nation's 615,000 bridges in the National Bridge Inventory was structurally deficient. Increasing truck size and weight will exacerbate these problems and dilute potential benefits from investments in infrastructure.

There is overwhelming opposition to bigger and heavier trucks. The public has consistently and strongly rejected any increases to truck size and weight. In a nationwide poll released just last month, 7 of 10 respondents opposed longer and heavier trucks. Just last week, a letter signed by over 1,000 local government officials was sent to Congress urging rejection of any attempts to increase truck size and weight. And, both the House and Senate voted against attempts to allow bigger and heavier trucks in strong bipartisan votes during the last Congress. Furthermore, the U.S. Department of Transportation (U.S. DOT) recommended that no changes be made to federal truck size and weight laws as recently as 2016.

Larger and heavier trucks pose a myriad of problems for both safety and infrastructure. Trucks heavier than 80,000 pounds have a greater number of brake violations, which are a major reason for out-of-service violations. Alarmingly, trucks with out-of-service violations are 362 percent more likely to be involved in a crash, according to a North Carolina study by the Insurance Institute for Highway Safety (IIHS). Tractor-trailers moving at 60 mph are required to stop in 310 feet – the length of a football field – once the brakes are applied. Actual stopping distances are often much longer due to driver response time before braking and the common problem that truck brakes are often not in top working condition. In 2016, violations related to tires and/or brakes accounted for five of the top ten most common vehicle out-of-service violations. Moreover, increasing the weight of a heavy truck by only 10 percent increases bridge damage by 33 percent. The Federal Highway Administration (FHWA) estimates that the investment backlog for bridges, to address all cost-beneficial bridge needs, is $123.1 billion. The U.S. would need to increase annual funding for bridges by 20 percent over current spending levels to eliminate the bridge backlog by 2032.

The U.S. DOT Comprehensive Truck Size and Weight Study found that introducing double 33 foot trailer trucks, known as "Double 33s," would be projected to result in 2,478 bridges requiring strengthening or replacement at an estimated one-time cost of $1.1 billion. This figure does not even account for the additional, subsequent maintenance costs which will result from longer, heavier trucks. Double trailer trucks have an 11 percent higher fatal crash rate than single trailer trucks. They also require more stopping distance, take more time to pass, have bigger blind spots, cross into adjacent lanes and swing into opposing lanes on curves and when making right angle turns.

Bigger trucks will not mean fewer trucks. A common and misleading argument made in support of bigger and heavier trucks is that it will result in fewer trucks on the road. History and experience tell us that this is simply not true. Since 1982, when Congress last increased the gross vehicle weight limit, truck registrations have more than doubled. The U.S. DOT study also addressed this assertion and found that any potential mileage efficiencies from use of heavier trucks would be offset in just one year.

Improving the Nation's infrastructure is a goal that we all share and sbould not be crippled by efforts to increase or evade truck size and weight limits. We urge you to reject any and all attempts to put bigger and heavier trucks on our roads.

Sincerely,

Catherine Chase, President
Advocates for Highway and Auto Safety

Jeff Solheim, 2018 President
Emergency Nurses Association

Georges C. Benajmin, MD, Executive Director
American Public Health Association

Joan Claybrook, Chair
Citizens for Reliable and Safe Highways (CRASH) and
Former Administrator, National Highway Traffic Safety Administration

James P. Hoffa, General President
International Brotherhood of Teamsters

Linda Bauer Darr, President
American Short Line and Regional Railroad Association

John Risch, National Legislative Director
SMART-TD (UTU)

Jack Gillis, Director of Public Affairs
Consumer Federation of America

Dave Tennent, Executive Director and CEO
Railway Engineering-Maintenance Suppliers Association

Dawn King, President
Truck Safety Coalition

Janette Fennell, Founder and President
KidsAndCars.org

Andrew McGuire, Executive Director
Trauma Foundation

Daphne Izer, Co-Chair
Parents Against Tired Truckers

Linda Wilburn
Weatherford, OK
Board Member, PATT
Mother of Orbie Wilburn
Killed in a truck crash 9/2/02

Kate Brown
Gurnee, IL
Volunteer, Truck Safety Coalition
Mother of Graham Brown
Injured in a truck crash 5/2/05

Morgan Lake
Sunderland, MD
Volunteer, Truck Safety Coalition
Injured in a truck crash 7/19/13

Dominick Stokes, Vice President for Legislative Affairs, Federal Law Enforcement Officers Association

E. Michael O'Malley, President
Railway Supply Institute

Steve Owings, Co-Founder
Road Safe America

Chuck Baker, President
National Railroad Construction and Maintenance Association

Brad Roseberry, Vice President
Coalition Against Bigger Trucks

Jennifer Tierney, Board Member
CRASH Foundation

Jason Levine, Executive Director
Center for Auto Safety

Ed Slattery
Lutherville, MD
Board Member, PATT
Husband of Susan Slattery
Killed in a truck crash 8/16/10
Sons Matthew & Peter Slattery critically injured in a truck crash 8/16/10

Peter Malarczyk
Hastings-on-Hudson, NY
Volunteer, Truck Safety Coalition
Injured in a truck crash 12/29/15
Son of Ryszard and Anita Malarczyk
Killed in a truck crash 12/29/15

Monica Malarczyk
Hastings-on-Hudson, NY
Volunteer, Truck Safety Coalition
Injured in a truck crash 12/29/15
Son of Ryszard and Anita Malarczyk
Killed in a truck crash 12/29/15

Larry Liberatore
Severn, MD
Board Member, PATT
Father of Nick Liberatore
Killed in a truck crash 6/9/97

Michelle Novak
Delevan, NY
Volunteer, Truck Safety Coalition
Aunt of Charles "Chuck" Novak
Killed in a truck crash 10/24/10

Lisa Shrum
Fayette, MO
Volunteer, Truck Safety Coalition
Daughter of Virginia Baker, Step-daughter of Randy Baker
Killed in a truck crash 10/10/06

Wanda Lindsay
New Braunfels, TX
Volunteer, Truck Safety Coalition
Wife of John Lindsay
Killed in a truck crash 5/7/10

Beth Badger
Columbus, GA
Volunteer, Truck Safety Coalition
Daughter of Bill Badger
Killed in truck crash 12/23/04

Tami Friedrich Trakh
Corona, CA
Board Member, CRASH
Sister of Kris Mercurio, Sister-in-Law of Alan Mercurio, Aunt of Brandie Rooker & Anthony Mercurio
Killed in a truck crash 12/27/89

Julie Branon Magnan
South Burlington, VT
Volunteer, Truck Safety Coalition
Injured in a truck crash 01/31/02
Wife of David Magnan
Killed in a truck crash 01/31/02

Alan Dana
Plattsburgh, NY
Volunteer, Truck Safety Coalition
Son of Janet Dana, Uncle of Caitlyn & Lauryn Dana, Brother-in-law of Laurie Dana
Killed in a truck crash 7/19/12

Henry Steck
Homer, NY
Volunteer, Truck Safety Coalition

Jane Mathis
St. Augustine, FL
Vice President, TSC
Board Member, PATT
Mother of David Mathis
Mother-in-Law of Mary Kathryn Mathis
Killed in a truck crash 3/25/04

Ron Wood
Washington, D.C.
Volunteer, Truck Safety Coalition
Son of Betsy Wood, Brother of Lisa Wood Martin, Uncle of Chance, Brock, and Reid Martin
Killed in a truck crash 9/20/04

Jackie Novak
Hendersonville, NC
Volunteer, Truck Safety Coalition
Mother of Charles "Chuck" Novak
Killed in a truck crash 10/24/10

Christina Mahaney
Jackman, ME
Volunteer, Truck Safety Coalition
Injured in a truck crash 7/19/11
Mother of Liam Mahaney
Killed in a truck crash 7/19/11

Nancy Meuleners
Bloomington, MN
Volunteer, Truck Safety Coalition
Injured in a truck crash 12/19/89

Debra Cruz
Harlingen, TX
Volunteer, Truck Safety Coalition
Injured in a truck crash 8/8/08

Laurie Higginbotham
Memphis, TN
Volunteer, Truck Safety Coalition
Mother of Michael Higginbotham
Killed in a truck crash, 11/18/14

Vickie Johnson
Hartwell, GA
Volunteer, Truck Safety Coalition
Wife of Curt Johnson, Step-mother of Crystal Johnson
Killed in a truck crash 10/1/09

Randall Higginbotham
Memphis, TN
Volunteer, Truck Safety Coalition
Father of Michael Higginbotham
Killed in a truck crash, 11/18/14

Tina Silva
Ontario, CA
Volunteer, Truck Safety Coalition
Sister of Kris Mercurio, Sister-in-Law of Alan Mercurio, Aunt of Brandie Rooker & Anthony Mercurio
Killed in a truck crash 12/27/89

Bruce King
Davisburg, MI
Volunteer, Truck Safety Coalition
Son-in-law of Bill Badger
Killed in truck crash 12/23/04

Cindy Southern
Cleveland, TN
Volunteer, Truck Safety Coalition
Wife of James Whitaker, sister-in-law Anthony Hixon and aunt of Amber Hixon
Killed in a truck crash 9/18/09

Amy Fletcher
Perrysburg, OH
Volunteer, Truck Safety Coalition
Wife of John Fletcher
Killed in a truck crash 1/24/12

Steve Izer
Lisbon, ME
Board Member, PATT
Father of Jeff Izer
Killed in a truck crash 10/10/93

Sandra Lance
Chesterfield, VA
Volunteer, Truck Safety Coalition
Mother of Kristen Belair
Killed in a truck crash 8/26/09

Bernadette Fox
Davis, CA
Volunteer, Truck Safety Coalition
Best friend of Daniel McGuire
Killed in a truck crash 7/10/14

Warren Huffman
Odessa, MI
Volunteer, Truck Safety Coalition
Brother of Tim Huffman
Killed in a truck crash 5/6/13

Paul Badger
Davidson, NC
Volunteer, Truck Safety Coalition
Son of Bill Badger
Killed in truck crash 12/23/04

Marc Johnson
Hartwell, GA
Volunteer, Truck Safety Coalition
Brother of Curt Johnson
Killed in truck crash 10/1/09

Melissa Gouge
Washington, D.C.
Volunteer, Truck Safety Coalition
Cousin of Amy Corbin
Killed in a truck crash 8/18/97

Kim Telep
Harrisburg, PA
Volunteer, Truck Safety Coalition
Wife of Bradley Telep
Killed in a truck crash 8/29/12

Marchelle Wood
Falls Church, VA
Volunteer, Truck Safety Coalition
Mother of Dana Wood
Killed in a truck crash 10/15/02

Ashley McMillan
Memphis, TN
Volunteer, Truck Safety Coalition
Girlfriend of Michael Higginbotham
Killed in a truck crash 11/18/14

Tammy Huffman
Odessa, MI
Volunteer, Truck Safety Coalition
Sister-in-law of Tim Huffman
Killed in a truck crash 5/6/13

Frank Wood
Falls Church, VA
Volunteer, Truck Safety Coalition
Father of Dana Wood
Killed in a truck crash 10/15/02

Santiago Calderon
Arcata, CA
Volunteer, Truck Safety Coalition
Injured in a truck crash 4/10/14

Michelle Lemus
Los Angeles, CA
Volunteer, Truck Safety Coalition
Injured in a truck crash 4/10/14

John Ramsey
Edneyville, NC
Volunteer, Truck Safety Coalition

cc: Members of the U.S. Senate Committee on Environment and Public Works

REBUILD AMERICA'S SCHOOLS
A National Coalition

American Federation of Teachers □ Council of The Great City Schools □ National Education Association
International Union of Operating Engineers □ National Parent Teacher Association □ □ National School Boards Association
AASA, The School Superintendents Association □ National Association of Elementary School Principals □
National Association of Secondary School Principals □ NAACP □ National Association of Federally Impacted Schools □
American Institute of Architects□ □ Organizations Concerned About Rural Education □ National Rural Education Association
Californians for School Facilities

SCHOOL DISTRICTS
Akron, OH
Aldine, TX
Birmingham City, AL
Birmingham Public, AL
Boston, MA
Broward County, FL
Brownsville, TX
Chicago, IL
Cincinnati, OH
Clark County, NV
Compton, CA
Corpus Christi, TX
Dayton, OH
Detroit, MI
Escambia, FL
Houston, TX
Jefferson Parish, LA
Jersey City, NJ
McAllen, TX
Memphis, TN
Miami-Dade, FL
Milwaukee, WI
Minneapolis, MN
Montgomery, AL
Nashville, TN
Newark, NJ
New Orleans, LA
New York, NY
Norfolk, VA
Oklahoma City, OK
Omaha, NE
Pharr-San Juan-Alamo, TX
Philadelphia, PA
Providence, RI
Richmond, VA
Rochester, NY
Savannah-Chatham, GA
St. Louis, MO
St. Paul, MN
Toledo, OH
Tulsa, OK
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RebuildAmericasSchools@comcast.net

March 1, 2018

The Honorable Thomas Carper
Ranking Member, Committee on Environment and Public Works
U.S. Senate
Washington, D.C. 20510

Dear Senator Carper:

Rebuild America's Schools (RAS) appreciates The Senate Committee on Environment and Public Works hearing on "The Administration's Framework for Rebuilding Infrastructure in America." Rebuild America's Schools supports investing in our national road, bridge, highway infrastructure including state and local school facility infrastructure. The need to modernize our nation's schools is extensive. School infrastructure needs are beyond the capacity of state and local communities. A 2013 Center for Green Schools Report State of Our Schools estimated that nationally schools face $271 billion in deferred maintenance costs. The Report estimated a $542 billion cost to bring schools into good repair over the next ten years.

The American Society of Civil Engineers 2017 Infrastructure Report Card rated Schools with a D+. Summarizing "Every school day, nearly 50 million K-12 students and 6 million adults occupy close to 100,000 public school buildings.... While state and local governments make significant investment in public K-12 schools infrastructure and schools play important civic, educational, and public safety roles in communities, the nation continues to underinvest in school facilities, leaving an estimated $38 billion annual gap. As a result, 24% of public school buildings were rated as being in fair or poor condition."

In a bipartisan letter Senators Reed, Brown, Murkowski and 23 Senate colleagues wrote to the White House supporting school infrastructure: "safe, healthy, modern, well-equipped schools are essential for advancing student achievement and for ensuring that the next generation can achieve the American Dream and meet the economic, social, environmental, and global challenges our nation faces."

Rebuild America's Schools appreciates the emphasis in the President's Infrastructure Initiative on federal and state and local partnerships and state and local decision making. Today, states and local governments across the county are investing in school facility infrastructure advancing student achievement, success and career development while producing local construction jobs. Under the Administration's Infrastructure Initiative, federal, state and local governments should be able to decide to invest in schools as a priority. Federal partnerships will supplement state and local efforts to renovate, repair, modernize and build schools and classrooms promoting student success and generating jobs in local communities.

Rebuild America's Schools supports federal investments through Grants, Tax Credit Bonds, Low interest loans, Infrastructure Banks and other financial incentives. Rebuild America's Schools supports The School Building Improvement Act (S.1674) sponsored by Senators Reed, Brown and Senate colleagues authorizing federal grants and bonds to renovate, repair, and construct public school infrastructure. S.1674 would provide federal financial support to partner with state and local projects renovating, repairing, modernizing and building schools and classrooms.

Rebuild America's Schools looks forward to working with the Committee and the Administration to:

- Advance federal investments in our nation's infrastructure and school facilities.
- Invest in our nation's schools with state and local partners.
- Assist with Grants, Tax Credit bonds, Low interest loans, Infrastructure Banks.
- Renovate, repair, modernize and build technologically advanced, efficient, modern schools.
- Advance student achievement, success and 21st Century workforce preparation.

Thank you for your work on this critical issue. We especially appreciate and agree with The Chairman's comments recognizing that "Infrastructure improvements will help all of America. This is not a Republican or Democrat issue. Let's work together to get this done." Rebuild America's Schools stands ready to assist as Congress works to improve our nation's school infrastructure.

Sincerely,

Bob Canavan

Robert P. Canavan
Chair, Rebuild America's Schools

American Fly Fishing Trade Association • American Sportfishing Association • American Woodcock Society • Archery Trade Association • Association of Fish & Wildlife Agencies • California Waterfowl Association • Backcountry Hunters & Anglers • Bass Anglers Sportsman Society (B.A.S.S.) • Bonefish & Tarpon Trust • Everglades Foundation • Fly Fishers International • Guy Harvey Ocean Foundation • International Game Fish Association • Izaak Walton League of America • National Deer Alliance • National Wildlife Federation • National Wildlife Refuge Association • The Nature Conservancy • Pope & Young Club • Quality Deer Management Association • Ruffed Grouse Society • Snook & Gamefish Foundation • Theodore Roosevelt Conservation Partnership • Trout Unlimited • Wild Salmon Center

March 13, 2018

The Honorable John Barrasso
Chairman
Senate Committee on Environment and Public Works
410 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Tom Carper
Ranking Member
Senate Committee on Environment and Public Works
456 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Barrasso and Ranking Member Carper,

On behalf of our millions of members and supporters, the undersigned hunting, fishing, and conservation organizations, and businesses comprising the outdoor recreation economy, write in support of policy recommendations for the upcoming Water Resources Development Act (WRDA) legislation. Additionally, we have identified three projects currently requiring congressional authorization that, when implemented, will advance long-held priorities from the sportsmen, conservation, and outdoor recreation communities.

Investments in natural and nature-based infrastructure that serve to conserve and restore our nation's waterways will not only benefit the fish and wildlife habitat that allow sportsmen and women to pursue their passion, but also boost local economies and enhance the resiliency of communities across the country. We are eager to work with you on the below recommendations which we believe would constitute sound stewardship of our country's natural resources and preserve our hunting and fishing heritage for the next generation.

Natural and Nature-Based Solutions
We want to thank the Committee for the progress made in the Water Infrastructure Improvements for the Nation (WIIN) Act toward more appropriately assessing the use of natural infrastructure measures for Army Corps (Corps) projects. In the two years since enactment, evidence of natural infrastructure's cost-effectiveness and public safety benefits has been produced nationwide – both coastal and inland. For example, a recent study demonstrates that during Hurricane Sandy, wetlands prevented $625 million in flood damages in 12 coastal states and reduced damages by 20 to 30 percent in the four states with the greatest wetland coverage. As a result, projects that utilize natural infrastructure measures are attracting an increasing interest by communities and non-federal partners.

We hope Congress will take the opportunity to build on this momentum by including provisions in this year's WRDA that further facilitate and incentivize meaningful evaluation and use of natural infrastructure measures for flood and storm damage reduction projects. By applying nature-based ecosystem restoration techniques such as living shorelines, wetland and floodplain restoration, and sediment diversions, the Corps can reduce flood damages while enhancing fish and wildlife habitat and the outdoor recreation economy relying on it.

Utilize Expertise of Federal and State Wildlife Experts

Fish and Wildlife Coordination Act (FWCA) review is a longstanding, mandatory, and critically important component of water resources planning. Unfortunately, the Corps and many other federal agencies subject to the Act often ignore the recommendations of state and federal fish and wildlife experts made pursuant to the FWCA during project planning, creating unnecessary, avoidable impacts and leading to inadequate mitigation plans. Agencies sometimes fail to consult at all with the federal and state fish and wildlife agencies on projects that affect the nation's waters, despite the FWCA's clear requirement to do so.

In this year's WRDA, Congress should ensure that the Corps, and other federal agencies initiating water resources projects, utilize Fish and Wildlife Coordination Act recommendations derived from the special expertise of federal and state fish and wildlife experts, such as methods and metrics for assessing fish and wildlife impacts and mitigation opportunities. Congress should also reaffirm the importance of the FWCA consultation process and clarify that it applies to reassessments of project operations. Evaluating fish and wildlife impacts and mitigation opportunities early in the planning process, and in accordance with the extensive and carefully developed recommendations of federal and state fish and wildlife experts, is a common sense, cost-effective way to improve planning efficiency and reduce avoidable impacts.

Benefit-Cost Ratios

The Corps' assessments of project benefits and costs have significant shortcomings, leading to benefit-cost ratios (BCR) that do not provide a reliable assessment of whether or not a project is in the Federal interest. BCRs do not adequately account for a project's full life-cycle costs or the cost of lost ecosystem services, such as erosion prevention or water purification, and fail to account for construction needs identified in the detailed technical design phase. Additionally, BCRs fail to account for the public safety and economic benefits created and preserved by utilizing natural and nature-based infrastructure measures. Moreover, rather than using a BCR as just one of a number of decision-making tools, the Corps too often recommends projects for authorization and funding based solely on the project's BCR. These assessments are often wildly inaccurate and opaquely tilt the scales toward large-scale structural projects that benefit certain industry sectors while leaving others, including the outdoor economy, behind.

We request that this year's WRDA modernize the BCR process. Congress should establish additional specific criteria to ensure that Corps BCRs fully account for project costs (including lost ecosystem services and full life-cycle costs), and exclude project benefits from activities that are contrary to law and policy. Congress should also establish a process to improve the accuracy of Corps BCR analyses and reaffirm that BCR is just one of several decision tools that should be utilized by the Corps. These changes would allow the Corps to more effectively fulfill its missions to reduce flood risk; ensure safe, reliable navigation of our nation's waterways; and conserve and restore the environment and outdoor economy and recreational opportunities that depend on healthy waters.

Update Operating Plans

Many major Corps projects are managed under decades-old water control manuals and navigation operating plans that are causing significant harm to fish and wildlife populations and their habitat, increasing flood risks for communities, and ignoring current conditions and needs. For example, major California reservoirs are being operated under fifty-year-old water control manuals and the vast majority of the Upper Mississippi River navigation system is being managed under forty-year old navigation operating plans that cannot account for decades of ecological changes and advancements in science and management techniques.

We request that this year's WRDA require the Corps to evaluate and update operating plans and water control manuals for large-scale Corps projects at least every 10 years, in consultation with state and federal agencies. By working together, we can more accurately account for species life cycle needs, preclude listings under the Endangered Species Act, avoid the spread of aquatic invasive species (AIS) and provide for additional wildlife and water resource associated recreational opportunities that serve as the foundation for rural economies. We also recommend that Congress direct the Corps to assess the challenges to completing regular updates to manuals and plans and identify opportunities for optimizing timely completion of such updates. Regular updating of operating plans would ensure that the extensive array of federal water resources infrastructure is managed with state-of-the-art approaches that can improve operations, address modern needs and conditions, and protect habitat.

Project and Study Authorizations

Finally, we would like to draw the Committee's attention to three projects requiring congressional authorization – one requiring a feasibility study, the other two requiring Post Authorization Change Report (PACR) authorizations. These projects would restore and enhance natural processes, and would provide water quality and fish habitat benefits along hundreds of ecologically important river miles.

Everglades Restoration

South Florida's recreational economy relies on healthy fish and wildlife populations in the Everglades. There are two Everglades restoration project priorities that we request your attention to in this WRDA.

First, the Everglades Agricultural Area (EAA) Storage Reservoir project, one of the project components authorized in the Comprehensive Everglades Restoration Plan (CERP), is a critical step in the effort to reduce the discharge of damaging freshwater from Lake Okeechobee into the Caloosahatchee and St. Lucie estuaries and send more water south into the Everglades system. Achieving these goals will depend on a final project plan that meets water quality requirements and federal cost-feasibility analyses. We anticipate a PACR to the Central Everglades Project (CEP) to meet these tremendous ecosystem goals will be ready for congressional approval in this current WRDA cycle.

Second, completion of the Kissimmee River Restoration project is expected in FY 2020, which would improve the timing and distribution of water flows into the Everglades from the headwaters region. We request congressional authorization of an expected PACR in order for the South Florida Water Management District to receive credit for important engineering work for flow easements that they provided, enabling the project to move forward and resulting in lower project costs.

Lower Mississippi River Feasibility Study

The Lower Mississippi River (LMR) is a nationally significant ecosystem and vital for navigation, flood-risk reduction, and community well-being, but lacks a comprehensive ecosystem restoration program like that found on the Upper Mississippi. After years of progress, the Corps is now at a point to accelerate restoration of the natural resources of the LMR for the people and wildlife of the region.

We ask Congress to take advantage of the opportunity present in this year's WRDA to establish an ecosystem restoration program by authorizing a study to address the feasibility and prioritization of vital habitat projects across the LMR. The preliminary non-federal sponsor submission was included in this year's Report to Congress on Future Water Resources Development, giving Congress the ability to greenlight this crucial ecosystem restoration project.

We thank you for the opportunity to submit our recommendations. We look forward to working with you, your staff, and the entire Committee on Environment and Public Works to ensure that hunters and anglers have a voice in shaping upcoming WRDA legislation.

Signed,

American Fly Fishing Trade Association
American Sportfishing Association
American Woodcock Society
Archery Trade Association
Association of Fish & Wildlife Agencies
California Waterfowl Association
Backcountry Hunters & Anglers
Bass Anglers Sportsman Society (B.A.S.S.)
Bonefish & Tarpon Trust
Everglades Foundation
Fly Fishers International
Guy Harvey Ocean Foundation
International Game Fish Association
Izaak Walton League of America
National Deer Alliance
National Wildlife Federation
National Wildlife Refuge Association
The Nature Conservancy
Pope & Young Club
Quality Deer Management Association
Ruffed Grouse Society
Snook & Gamefish Foundation
Theodore Roosevelt Conservation Partnership
Trout Unlimited
Wild Salmon Center

Senator CARPER. No objection.

Senator BARRASSO. Senator Carper.

Senator CARPER. I want to make two unanimous consent requests.

I just want to say to both of you thanks for being here and thanks for your willingness to take on tough jobs. Albert Einstein used to say, “In adversity lies opportunity.” There is a lot of adversity here but actually a lot of opportunity.

I think with your leadership—the leadership of our Chairman and other Democrats and Republicans—we can make progress. We really need to on these fronts. I look forward to doing that.

In the spirit of that thought, Mr. Chairman, I have two unanimous consent requests to submit for the record. One, I ask unanimous consent to submit for the record the White House infrastructure proposal summary document that states that overall, for highways, “28 percent of funding is Federal.”

I would also note that the same document indicates that if we look at just capital expenditures, Federal funds currently support more than half of all spending on highways—not just in Delaware, but in the United States across the country.

I have a second unanimous consent request, if I could, Mr. Chairman. I would ask unanimous consent to submit for the record the January 2018 GAO report entitled Highways and Transit Projects. In that report, GAO notes that it previously reported that 99 percent of highway projects are not being held up by complex NEPA reviews. Meanwhile, Federal Highway Administration officials expressed “Categorical exclusions still constitute the vast majority of NEPA reviews for highway projects.”

Thank you, Mr. Chairman.

Senator BARRASSO. Without objection, so ordered.

[The referenced information follows:]

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release February 10, 2018

BACKGROUND PRESS CALL

BY SENIOR ADMINISTRATION OFFICIALS

ON THE PRESIDENT'S INFRASTRUCTURE PRINCIPLES

Via Teleconference

1:07 P.M. EST

MS. STROM: Thank you. And, guys, I'm sorry if you're hearing a little extra noise on the line. That might just be me. But we'll make sure that's taken care of, and we'll also have a transcript of this later. So reach out to me if you want that.

But thanks for joining us on Saturday afternoon to talk about the upcoming release of the President's infrastructure principles.

On the line with me is [senior administration official], and he'll start off by running through a summary of the infrastructure principles which will be released Monday morning, and then we'll open it up to your questions.

The information on this call is embargoed until 5:00 p.m. Eastern Time on Sunday, February 11. So without further ado, I'll let [senior administration official] take it away so we can all get back to our Saturday as quickly as possible.

SENIOR ADMINISTRATION OFFICIAL: Thank you, Natalie, and thank you everyone for joining for this. As Natalie mentioned, I'm going to walk through just, kind of, high-level overview of what we'll be releasing on Monday, and then we can open it up for questions and answers for anybody who wants more detail than what I cover initially.

So let me start by just talking about why are we doing this. Infrastructure is obviously a critical component to the functioning of our economy. A lot of America's success is a result of the quality of the infrastructure we've had historically. But the current system is fundamentally broken, and it's broken in two different ways: We are under-investing in our infrastructure, and we have a permitting process that takes so long that even when funds are adequate, it can take a decade to build critical infrastructure.

So the President's vision is to have a permanent fix for the problems that plague us in terms of under-investing and the length of the permitting process, and not just kick the can down the road and pass things over for a couple of years, which has been the habit in infrastructure policy for the last couple of decades.

So before we start talking about what we're doing, I think it's important to understand the context in which we're operating and understanding in terms of how infrastructure is currently funded and developed.

The federal government plays a huge role in permitting infrastructure. So virtually 100 percent of major infrastructure in the U.S. requires some form of federal permitting, but we play a much smaller role when it comes to funding in that we only fund about 14 percent of infrastructure costs, and we own even less; we own in the single digits in terms of -- if you think of all the infrastructure in the U.S. and what does the federal government own.

While we fund 14 percent, the other 86 percent is relatively evenly split between state and local governments and the private sector. So while the federal government is an important component, we're a minority player when it comes to investing in infrastructure.

All of infrastructure is paid for by taxpayers, by users of the infrastructure. And we have done -- if you go and ask the public what their preference is, they would prefer to invest locally as opposed to sending money to Washington. And so the President's proposal, sort of, builds on what it is that the public is asking for, and that is an opportunity to improve their infrastructure but do it in a way that's accountable, do that in a way it's local, do that in a way where they can see tangible benefits for the investments that they're applying to infrastructure.

So with that as a background, the President's proposal that will be rolled out on Monday has four major overarching objectives: We want to stimulate $1.5 trillion in new investment and infrastructure. We want to shorten the permitting process into two years. We want to invest in rural infrastructure. And we want to making improvements in training our workforce so Americans are prepared to take advantage of the jobs that will be created as we build out and improve our workforce.

So the $1.5 trillion in new investment comes from an incentives package that we're proposing and from enhancing our loan programs federally. So the way that the $200 billion in new federal funds will be spent is it will be split down into -- $100 billion will be spent on incentives. And there, what we will do is we will match dollars that state and local governments are spending on infrastructure. So if they're creating new revenue streams and they want to build something, we will partner with them to help them to match and fulfill that one final gap in terms of financing infrastructure.

And then, in addition to that, we get there through a $20 billion expansion in our loan programs and in private activity bonds. So, currently, our lending programs include TIFIA, WIFIA, and RRIF. TIFIA is a transportation lending program; WIFIA for water; RRIF for rail.

In the case of TIFIA, one federal taxpayer dollar of investment generates $40 of project being built. And so that is a great return in terms of taxpayer dollars to projects overall. That's how we get from a $100 billion investment in incentives and the $20 billion investment expanding our loan programs, to $1.5 trillion in new investment infrastructure nationwide.

In addition, we want to invest $50 billion in rural infrastructure. That will be funded differently. The incentives programs will be applications that come to agencies asking for matching grants. The rural program will be block grants to governors, to allow governors to select what the priorities of infrastructure are in their respective states.

One thing that -- the consistent feedback that we get from those that are interested in investing more in infrastructure is they would like to set their own priorities as opposed to have the federal government set priorities for them. So the rural program does that.

We will also have $20 billion for transformative programs. That ensures that we're not focusing on just patching up the infrastructure that we have currently, but will we also have a vision towards the future, towards projects that can lift the American spirit, that are the next-century-type of infrastructure as opposed to just rebuilding what we have currently.

And then, finally, we're setting aside and proposing that Congress spend $10 billion and put it into a capital financing fund. That fund -- that helps us with those governmental accounting rules. And I can get more details if somebody wants to. In essence, it's a just more responsible way for us to actually fund the office-building infrastructure that the federal government is building currently.

In addition to that, we also have a section that focuses on workforce, where we are removing obstacles and disincentives for people who don't want to go to a four-year college, and prefer to move in some type of trade, by expanding Pell eligibility, changing the license requirements, and adding more flexibility. So if you're licensed to perform a trade in one part of the country, you can move to another part of the country and transfer that license, and then expand out the use of apprenticeships to help those that are interested in going to trades, develop their skills, and move more gradually into the workforce. So that's where the funding component of this is going.

An equally significant component of what the President will be proposing on Monday touches on the environmental permitting process. You've heard him talking -- and he's mentioned it several times, in the State of the Union most recently -- that the process that we have in the U.S. just takes way too long, and it's not really focused on outcomes in terms of making sure we build projects responsibly and understand the environmental impact. It's focused more on preparing for litigation and building up massive documents.

And so we want to shorten the process but, at the same time, preserve all of the environmental protections that current law has. And so we're going to move towards a process that we call "One Agency, One Decision," where we will create a lead federal agency that will have the authority to establish and move through a process so that that agency, working with the permitting agencies, can reach a collective decision. They would all sign a record of decision. That process would be done in 21 months, and then the permitting would be done within three months after that.

So we're making a number of changes that allow us to get there. And I can go into more detail about those if anyone is interested. But, really, the primary mission is having -- the primary way we get there is to have one agency lead, and then remove a whole series of duplicative requirements that are in law, where we will have one federal agency make a decision, and that decision will then be second-guessed by a second federal agency, which, of course, creates inevitable conflicts and inevitable delays as you have multiple agencies trying to make the same decision.

So what we're going to do is, for every decision that needs to be made, find the agency that has the best expertise in terms of making that decision, give them the authority to make that decision, and then have other agencies partner with them and execute on that decision that's been made.

We also would look to expand more delegation to states. Currently, we delegate relatively heavily for some highway permitting decisions. So the states would still be required to comply with federal requirements, but they would be able to do that and do the analysis themselves. And we would create some pilot programs to expand better ways to do environmental compliance than the way we're doing currently.

Again, as I mentioned before, to circle back to how do we spend funds in a way to help us protect and enhance the environment as opposed to spending hundreds of millions of dollars on lawyers and accountants and engineers, to pull together massive documents that are limited utility in terms of helping the public understand the environmental impact that a specific project would have.

Let me close with the fact that we're very excited to be rolling this proposal out, and that we envision this will be a bipartisan push. And if you look at the proposals that have been out to date in terms of -- from Senate Democrats and House Democrats, and the Problem Solvers Caucus in the House -- it is a remarkable overlap in terms of the objective that we want to accomplish.

So in all of these programs we talk about, sort of, fixing the Highway Trust Fund and having stable funding for that; that we want to have competitive grants; increase loan funding; focus on waterways, on rural programs like broadband; to improve public lands; to have better facilities for veterans.

So we find it quite encouraging that, if you look at our proposal, there's a significant amount of overlap in terms of the objectives that we want to accomplish. There's obviously a disagreement of the best way to get to those objectives, but I think that a debate around the method, as opposed to objective, is much more likely to be successful. And so we're encouraged by the fact that, to date, Republicans, Democrats, independents all seem to share in terms of what ought to be done to resolve the problem that the nation currently has with infrastructure.

So with that as a high-level overview, I'll be happy to open it up and answer any questions.

SENIOR ADMINISTRATION OFFICIAL: Thanks. Just before I open it up for questions, I wanted to quickly touch on the extensive outreach that DJ Gribbin, Gary Cohn, obviously, and the team at the NEC, the White House Office of Legislative Affairs, and really the President's whole team have been doing on the Hill, on this issue.

I know it isn't like them to brag, but the President's whole team has spent the last year meeting with members and staff from both parties, both sides of the Hill, keeping them apprised of the plan (inaudible), and incorporating their feedback to ensure that the principles we're presenting on Monday have the best chance for success.

Since March of 2017, when we started formally tracking this, they've had over 40 meetings with members or their staff on infrastructure, many of which were with caucuses or other larger groups. Overwhelmingly, these numbers recognize the American people are calling for change from Washington when it comes to infrastructure.

According to a poll from Harvard-Harris, 84 percent of Americans believe that the U.S. needs an investment in infrastructure, and 76 percent believe that funding should come from a combination of public funds, bonds, and public-private partnerships, all of which would be available under the President's plan.

That same poll thinks that passing an infrastructure bill should be the second-highest priority for Congress, only behind stimulating American jobs, which, by the way, this plan also does a lot for as well. So it's not surprising that members of both parties are aligned with us in a lot of places.

On Wednesday, the President will host a bipartisan group of members, including Republican and Democrat leadership, as well chairmen and ranking members from many of the relevant committees, to continue this conversation at the White House.

Also on the line with us is [senior administration officials] from the White House Office of Legislative Affairs to work on the Senate and House side, respectively, on infrastructure. And they'll be available to answer some questions related to the legislative process on this, and some of that outreach. And they'll also be speaking as senior White House officials.

So with that, we will open it up for questions.

Q Thanks for having the call today. Two questions. Can you walk us through how you get to the $1.5 trillion or more in net infrastructure spending? And can you tell us what took so long? You mentioned you've been talking to people for a year. At one point, this plan was thought to come out last summer or fall. Walk us to through what led to the timing of the release on Monday.

SENIOR ADMINISTRATION OFFICIAL: Okay, so how do we get to the $1.5 trillion. As I mentioned before, some of the incentives package is designed to provide matching funds for states and localities who are, sort of, struggling to identify capital to expand on their infrastructure. So, for example, if a state says, hey, we want to build a certain project and we want to use this revenue stream for it, then they would come to us with that as a package. And the funds would be broken down into Department of Transportation, EPA, Corps of Engineers.

So if it's a transportation project, they'd go to DOT -- not unlike what they do currently with TIGER and with INFRA -- and say, here's the project that we are proposing; here are the funds that we'd like to spend on it. Federal government, we'd like you to pull out a match for that.

But the match -- the way that we get to $1.5 trillion is we could be putting 10 percent of -- or 20 percent in terms of the cost of that project. So if it's 10 percent, that would be 10 to 1; 20 percent would be 5 to 1. And so we envision that what we'll be doing is we'll be -- great return for federal taxpayer dollars, and that allows those dollars to go much, much further than the hundred billion dollars that's incentives.

And then, in addition, on the lending side, as I mentioned before, TIFIA has a 40 to 1 ratio. So $10 billion in TIFIA could be leveraged up to $400 billion in projects because of the way that TIFIA works. I can walk through that if you want me to.

So that's how -- so the focus is whether it's a trillion or 1.5, or a trillion higher, what that number represents is what do we think that state and local governments -- how will they likely respond to this program. And the reason we want from a trillion to $1.5 trillion is because we've actually received a, sort of, more enthusiastic response than we anticipated from state and local governments coming to us and saying, hey, we have this project, we have funding identified, but we'd love to participate in incentives to get that match to help finish up the project and build the whole thing.

And in terms of what took so long, I'll leave that up to the leg affairs team to answer.

SENIOR ADMINISTRATION OFFICIAL: Very simply, we got tax reform done last fall, and we're excited about rolling out on Monday.

Q Hi, thanks for the call. Can you explain how the private activity bonds will be expanded or more utilized? And will there be any, sort of, specific funding for projects of regional or national importance, like the Gateway Program? Or is that just going to be eligible for matching funds under the grant program that you described?

SENIOR ADMINISTRATION OFFICIAL: So on the private activity bonds, or the PAB fund, what we're going to do is expand eligibility for them and increase the amount -- in fact, we'd lift the state volume of caps. So, currently, PABs apply to a broad array of asset classes that include governmental and not necessarily governmental infrastructure.

And so the thinking is, to the extent that we're applying them to governmental infrastructure, and therefore not distorting the market -- which is the concern that you have with PABS if you're operating outside of governmental infrastructure -- that we would lift the cap on those and then we would expand it to all governmental infrastructure.

And in terms of the projects of regional and national significance, one of the underlying or overlaying themes of this whole thing is for the federal government not to pick and choose between projects, but to allow states and localities to advance what their priorities are. So the Gateway project would certainly be eligible for the incentives program, and, kind of, depending on what they do, they could potentially be eligible for the transformative project -- program, as well.

But we want to stay away from what has been historical precedent and what undermines the public's trust in sending money to Washington, and that is Washington picking and choosing what we think priorities ought to be for states and communities across the country.

Q Thanks for doing this call. Can you give us some more guidance on how the $200 billion in new money, how that will be paid for? Does that, kind of, come from shifting other resources in the federal budget around? Or will there be a specific plan for new revenue sources in this proposal?

SENIOR ADMINISTRATION OFFICIAL: Yes, so the $200 billion is in the President's budget, which will also be released on Monday. And the budget, as you know, includes a whole series of places where the administration is suggesting reducing funding and just a few places where it's suggesting increasing funding. And so the way it's currently envisioned is that we would pay for the $200 billion out of savings from other areas of the federal budget.

Q Hi, good afternoon. Thanks so much for doing this call. I wanted to follow up on the last question -- and sorry I missed the top part. To clarify, $200 billion will be direct spending. Please clarify that. And then my other question is, what happens if states that do have infrastructure needs actually don't have the money to pay their half of it? What is the alternative in that scenario?

SENIOR ADMINISTRATION OFFICIAL: So, yeah, there is $200 billion in direct spending as part of the budget. The rural funds are advanced and moved faster. So there's a frontloading of the rural funds, but there's a typical, sort of, bell-shaped curve over the 10 years of how the $200 billion would be spent.

And then, sorry, what was the second half of your question?

I think we lost Renee.

SENIOR ADMINISTRATION OFFICIAL: I think the second half was related to if there are state and local governments who can't raise the funds, what their alternative would be.

SENIOR ADMINISTRATION OFFICIAL: Thank you. Yeah, so, going back to -- what I did mention at the top was, this is a program that sits on top of existing programs. So we're not going to -- we're not proposing eliminating the Highway Trust Fund, or changing the state revolving funds. So to the extent that communities are eligible for federal funds already, that eligibility remains.

What this is, is for communities that say, hey, listen, we want to increase the revenue that we're raising and we'd like to the federal government to help match in that process.

Q Hey, guys, a couple questions. One, you mentioned that this is supposed to be a sustainable effort, not just kicking the can. If it's paid for by offsets, by cuts in other programs, is that really sustainable, the idea to find $200 billion every 10 years or so? And my other question is about the legislative strategy. Does this move through appropriations committees? And if so, how does the permitting part of it work?

SENIOR ADMINISTRATION OFFICIAL: So in terms of sustainability, when we're thinking of revenues at the state and local level, that could be property taxes; it could be user fees; it would be sales taxes. It could be a wide range of things. So a good case study would be Measure M in Los Angeles, where in the last year they passed ballot initiatives that ultimately will generate $120 billion in funding for infrastructure. That sales tax does not expire, so that is, kind of, the ultimate sustainable source of revenue for projects.

One of the problems with federal funding, as you know, is it's very intermittent. So we'll throw money at it and then we'll back off. I mean, at one stage, we weren't spending everything; it was in the Highway Trust Fund. Now we're spending $10 billion, $12 billion over what comes in the Highway Trust Fund.

So moving towards a more stable platform for funding is part of this initiative. And that more stable platform is at the state and local level. And then couple that with the fact that the public has said, hey, we prefer to invest at the state and local level. And so we should move -- if you're looking for sustainability, we should move -- you know, the federal government continues to play an important role, but we should move and rely more heavily on what state and local governments are doing.

Q Is there a second part of that?

SENIOR ADMINISTRATION OFFICIAL: Sure. This is [senior administration official, White House leg, specifically the House side. Just to, kind of, try and answer the second part of the question here -- and I'll turn it over to my counterpart who handles the Senate -- the House of Representatives will have, probably, at least six committees that will have parts of the infrastructure plan -- anywhere from the T&I committee to Education and Workforce, Veterans Affairs, Natural Resources, Energy and Commerce, and the Agriculture committee.

So you can see that the plan will be a broad group of committees in the House that will have, hopefully, their own lanes and maybe some overlapping issues, like rural infrastructure and broadband that can touch T&I, ag, and energy and commerce.

Within our discussions with members of Congress, staff directors, and chiefs of staff, everybody shares the goal that something has to be done. My colleagues spoke on the polling numbers that, I think, it was something about 84 percent of Americans know that infrastructure needs to be upgraded in this country. So there certainly is a desire to get something done this year.

The permitting process -- again, my colleague and I have talked to either very conservative or very liberal members of Congress who understand and know that permitting needs to be reformed in this country. So there is an absolute desire to fix some of these issues and these problems to make America more innovative and competitive around the world.

So our committees, they'll be up and ready to go and running as soon as we transmit stuff out this week. So that's, kind of, my pitch on the House side. I'll turn it over to my colleague of the Senate.

SENIOR ADMINISTRATION OFFICIAL: From the Senate standpoint, we're looking at, at least, five core committees or jurisdictions. The two primary committees, I would say, out of those five would be the committee on environment and public works and the commerce committee. So the permitting side will cross those committees.

Over the last year, my colleague and I, and other administration officials, have done extensive outreach to the Senate on a bipartisan basis. We've met with committee staff for all of the relevant committees or jurisdictions. We've met with the chairmen, we've met with rank-and-file members. We have briefed committee members and groups. We've done extensive lunches at the White House with key stakeholders from Capitol Hill, senators, and senior staff members. So we feel that we've accomplished a lot in terms of socializing our plan and getting feedback, incorporating that feedback, and making changes in our plan as well.

But we also want to emphasize that, with Monday's rollout, our plan is our opening in terms of providing ideas to Capitol Hill. And we look forward to working with the relevant committees through the regular-order process, through hearings and through additional feedback, through the markup process. And what we anticipate after we have hearings, after the committees write their bills, we'll be working very closely with Senator McConnell's team to determine a final legislative vehicle where we can put everything together and get it passed into law.

Q Hi, thanks for doing this. I was wondering if you could be more specific about the programs that are being cut in order to come up with the $200 billion -- if you could give us some examples of that. And then, also, on the incentives grants, am I correct that states and local governments would be eligible to -- they would have to provide at least 80 percent, and the government would do no more than 20? So I was hoping you could address those two issues.

SENIOR ADMINISTRATION OFFICIAL: So in terms of the programs being cut for the $200 billion, they're not matched. So it's not like we have $200 billion for infrastructure and these are the programs that we're cutting to pay for that $200 billion. That's not the way the budget works. We just have a list of cuts, and then some increases on the other side. So they're not paired.

There are some reductions in things like transit funding and TIGER grants, and things where the administration thinks that infrastructure funds haven't been spent efficaciously. And so, therefore, we want to do it in a better, more focused way. So there's not that matching.

In terms of incentives, and state and local governments providing at least 80 percent, there is -- thank you for asking that question, because there is, sort of, counter-narrative that's going on right now in terms of what the federal government traditionally funds.

Some critics of our approach have said we're going to move from an 80-20 formula to a 20-80 -- you know, 80 percent federal to just 20 percent federal. That comment is, sort of, indicative of the problem that we have in the way that Washington currently thinks about infrastructure, because that comment is not talking about infrastructure, it's not talking about transportation, it's not talking about highways. It's talking about federal-aid highways that are a small component of infrastructure overall that currently are eligible for an 80-20 mix.

If you just look at highways -- not federal-aid highways, but highways in the U.S. as a total, 28 percent of the funding is federal, 72 percent is non-federal. If you look at water projects, 4 percent is federal, 96 percent is non-federal.

So part of this is a little bit of an expectations game. What we need to understand is, if we're saying to state and local governments, who are currently spending the vast majority of funds on infrastructure, that if you, sort of, increase what you're doing already, we want to partner and match with you. And a lot of communities have been doing this for a decade now, so there's a trend that's accelerating where they're increasing their investment in infrastructure. That's a very healthy trend and we want to encourage that trend.

So the way the incentive program works is, come with revenue and come with a project, and your score is higher based upon the share of non-federal revenue that you have in your project. So there's not a 20 percent minimum, or maximum federal, but it's all about how do we get people to compete around in projects that they truly care about. And how do we know they truly care about them? Well, because they've got a lot of skin in the game on the project -- as opposed to, a lot of comments I've received since starting this job are people who are going, this is an absolutely critical project, it has to be done, it's vital to our community; our economy will boom if we do this. And I ask how much you've invested in it. And they're like, no, we're not investing in anything; we'd like you to invest in it.

So we, kind of, changed that dynamic and that culture to one -- since we talked about the (inaudible) more sustainable. The whole 80-20 is a little bit of a throwaway line that applies to a subset of a subset of a subset of infrastructure overall.

Q Hi, thanks for holding the call. A couple weeks ago, there was a document that -- a leaked document that detailed a number of potential environmental permitting changes. I wanted to -- the White House said that that was an old document. I want to know specifically what changes need to be made through legislation that this proposal will do, that you couldn't already do through administrative deference.

And then also, I wanted to know whether there were any, sort of, new requirements put in any of this infrastructure proposal that relates to some of the flooding and hurricanes that we saw this past fall, and with an eye towards reducing damage and better preparing communities for those types of events.

SENIOR ADMINISTRATION OFFICIAL: Good questions. So, on the permitting side, we're taking a four-pronged approach to helping with permitting: statutory changes, regulatory changes, policy changes, and cultural changes. And you really can't -- I mean, our process is so byzantine and so inefficient that we really can't address it short of doing activities on all four levels.

So, unfortunately, even if we did the culture changes, the policy changes, or the regulatory changes, there are still components of code that need to be changed to help align this up better. And I should start by saying that we are not touching any of the fundamental requirements of any of the core infrastructure acts. We're not saying you can have a bigger impact on dangerous species, or the water can be dirtier or the air can be dirtier, or anything like that. So the core acts stay the same. We're talking about the process that's used to do the analysis around the environmental impact.

So, some example are, we're going to require -- and we've actually done this administratively -- require everyone to sign a record of decision. So if you're an agency and you're looking at a project, and you're working with a lead federal agency, you need to be part of that team and sign off on the analysis, and not come back around after the record of decision is done, and say, "Oh, to issue my permit I need the following six additional things to do my analysis." So just getting people more coordinated upfront.

Currently, statute allows the EPA to do the 306 and 209 review of environmental impact statements. And that gets to the point where, if the federal government has gone through a process and made a decision, we don't want another component to second-guess that. You currently have, in 4(f), in (inaudible) property, you have overlapping jurisdictions of the Department of Interior, USDA, and HUD. They're all doing very similar analysis on 4(f). Sometimes we require an agency like the Corps of Engineers to do a 404 analysis and a 408 analysis, which essentially are looking at exactly the same things, but they have to be done separately because they're two different sections of the code.

So the statutory changes really are focused on let's eliminate the duplicative analysis and let's be clear in terms of who has the decision-making responsibility, and let's be clear in deferring to agencies' expertise and not have agencies second-guessing other agencies.

In terms of the flooding and the hurricane, there are provisions in here that expand the ability of the Corps of Engineers to partner with local communities and be more proactive. So, currently, if you're a community and there's a levee that's protecting your community, and you want to raise it a couple of feet, and you're willing to pay for all of it, the federal government will require you to jump through years and years and years of hoops before you're able to do that. We just think that's crazy and that -- there's going be limited Corps funding; there's been limited Corps funding for generations. It's likely that's going to continue. Let's give the Corps flexibility to allow others to participate in the improvement of that infrastructure.

In terms of specific funding for flooding and hurricane, obviously that's for legislation. That's not part of this bill.

Q Hello, thanks again for having the call. I guess, I was hoping to get another reaction to potential criticism of this proposal. The heartburn I'd been hearing from expectations about the plan was both the 80-20 match, switching to the, perhaps, 20-80, and also the notion of just finding cuts elsewhere in the budget, rather than finding a new channel of funding such as raising the gas tax. So basically, more simply, is the federal government walking away from its responsibilities to contribute to state and local construction projects?

SENIOR ADMINISTRATION OFFICIAL: Thank you, Bart. That's a great question. So, as I mentioned before, the 80-20/20-80 is just not accurate and it's wildly inaccurate. The federal government does not fund 80 percent of infrastructure in the U.S. Again, if you look at infrastructure overall, transportation, highways, federal-aid highways -- you get all the way down to federal-aid highways, then you see some 80-20 responsibility for specific projects. But even then you have states spending without that federal match on highways.

So I think that we're going to keep existing programs in place for the most part; we are going to eliminate a few things here and there. But for the most part, we're keeping everything stable. And the President has said that he is open to new sources of funding. And I should also say that we are going to roll out this package. We want it to be bipartisan. The President has four clear objectives that he wants to accomplish. And we will be quite flexible in terms of how we accomplish those objectives.

So this isn't -- this in no way, shape, or form should be considering a take-it-or-leave-it proposal. This is the start of a negotiation -- bicameral bipartisan negotiation -- to find the best solution for infrastructure in the U.S.

But we are not -- not only are we not walking away from the federal responsibility; we're taking even more responsibility to ensure that we get infrastructure funding and permitting on a sustainable track for generations.

Q Great, thanks. I have two questions. First, the President is always your best salesman. How are we going to see the President selling this? Will we see him taking trips to places with bridges crumbling and so on? And secondly, let me push back a little bit on the notion that the federal government won't be picking projects. The President has talked repeatedly, during the campaign and since, about this embarrassment at the state of American airports. Are we not going to see that priority by the President reflected at all?

SENIOR ADMINISTRATION OFFICIAL: So in terms of the best salesman -- I mean, absolutely, the President will be traveling. You'll see the Cabinet traveling. We will be talking about infrastructure all across the nation. I mean, unfortunately, we have infrastructure challenges in almost every corner of our country, so we'll be spending a lot of time talking about that.

In terms of not picking projects, the President has mentioned airports. And the last administration, as you recall, highlighted the challenge we have with airports as well. That is a longstanding struggle. What we're doing as part of this package is making it easier -- and you'll see the provisions in there -- making it easier for airport projects to get permitted, to get approved, to get funded, and to get financed.

So again, we're providing the opportunity and tools that currently are constraining infrastructure (inaudible) from improving and bettering their infrastructure. So a large part of the problem, currently, is that the federal government's rules and restrictions get in the way of building a better America. So we want to get out of the way in that regard. And then, in addition that, with our matching fund and incentive program, we want to boost the amount of revenue that's flowing to infrastructure all across the nation.

And one of the problems, when you pick specific projects, is that you then tend to pool federal resources in select areas, and everyone else gets left out. We're getting out of the project-picking primarily because we want everyone to have access to federal funds in terms of help, and to federal permitting systems.

SENIOR ADMINISTRATION OFFICIAL: And let me just piggyback a little bit on the answer to the first question. I think -- you mentioned specifically would the President be going to places with infrastructure challenges. I think we're also looking for him to go to places where we can highlight the positive steps that a lot of state and local governments have already taken in order to really address this problem at the state and local level, and highlight them and hold them up, and show them as examples of things that we would like to see more of, and how this plan will enable more of those types of projects to find success.

United States Government Accountability Office

GAO

Report to Congressional Committees

January 2018

HIGHWAY AND TRANSIT PROJECTS

Evaluation Guidance Needed for States with National Environmental Policy Act Authority

GAO-18-222

January 2018

GAO Highlights

Highlights of GAO-18-222, a report to congressional committees

HIGHWAY AND TRANSIT PROJECTS

Evaluation Guidance Needed for States with National Environmental Policy Act Authority

Why GAO Did This Study

Since 2005, over 30 provisions have been enacted in law to speed up the delivery of highway and transit projects, mainly by streamlining the NEPA review process. NEPA requires federal agencies to evaluate the potential environmental effects of proposed projects on the human environment. These project delivery provisions included new categorical exclusions to streamline the review process, and a provision allowing DOT to assign federal NEPA approval authority to states.

Congress included provisions in statute for GAO to assess the use of these provisions and whether they have accelerated project delivery. This report examines: (1) which project delivery provisions were used by state DOTs and selected transit agencies and the reported effects, and (2) the extent to which DOT has assigned NEPA authority to states and the reported effects, among other objectives. GAO surveyed all state DOTs and interviewed federal and state DOT officials and 11 selected transit agencies GAO determined were likely to have been affected by the provisions, and analyzed information from NEPA assignment states.

What GAO Recommends

FHWA should offer and provide guidance or technical assistance to NEPA assignment states on developing evaluation methodologies, including baseline time frames and timeliness measures. DOT partially concurred with the recommendation, saying it would clarify environmental review start times. GAO continues to believe further evaluation guidance is needed, as discussed in the report.

View GAO-18-222. For more information, contact Susan Fleming at (202) 512-2834 or flemings@gao.gov.

What GAO Found

The Department of Transportation's (DOT) Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) are responsible for National Environmental Policy Act (NEPA) compliance on highway and transit projects. Project sponsors that receive federal funds, typically a state DOT or transit agency, develop documents necessary for NEPA compliance for FHWA and FTA to evaluate and approve. Project sponsors prepare an environmental impact statement (EIS) when a project will have a significant environmental impact, or an environmental assessment to determine if a project will have a significant impact. Projects that fit within a category of activities pre-determined to have no significant impact (such as repaving a road) can receive a categorical exclusion, and an EIS or environment assessment is generally not needed. GAO found:

- State DOTs and selected transit agencies reported using provisions enacted in law to speed up the delivery of highway and transit projects, and while state DOTs reported that a number of provisions they used sped up delivery of highway projects, the effects on transit projects were less clear. For example, according to GAO's survey responses, 10 of 17 provisions that mainly created new "categorical exclusions" were used by 30 or more state DOTs and generally sped up projects. The provision state DOTs and transit agencies most often reported using was one that authorizes parkland or a historic site to be used for a transportation project if that project has a minimal impact on the environment. A majority of the 11 transit agencies GAO reviewed were not clear whether provisions they used sped up project delivery because these agencies did not track how long it took projects to complete the NEPA process, among other reasons.
- DOT assigned NEPA authority to six states: Alaska, California, Florida, Ohio, Texas, and Utah. Under agreements with FHWA, state DOTs calculate time savings by comparing NEPA completion times before (the baseline) and after assuming the authority. Only California and Texas have reported results; California reported that it reduced EIS review time 10 years from a 16-year baseline. However, these reported time savings are questionable because the comparisons do not consider other factors, such as funding, that can affect timelines. In establishing baselines, both states have also faced challenges, such as how many and which projects to include. California reported to its legislature that its baseline may not be meaningful because of the relatively small sample of five projects, but nevertheless presents these data on its web site as evidence of "significant" time savings.

  FHWA does not review the states' timeliness measures and time savings estimates, but has broad authority to offer guidance and technical assistance, which can include helping states develop sound evaluation methodologies and baselines. FHWA officials stated that they provide general technical assistance, but that no state has requested help developing evaluation methodologies. Offering and providing such assistance could help ensure that states considering applying for NEPA assignment base their decisions on reliable information, and that FHWA and Congress have reliable information to assess whether NEPA assignment results in more efficient environmental reviews.

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Abbreviations

AASHTO	American Association of State Highway and Transportation Officials
CTA	Chicago Transit Authority
DOT	Department of Transportation
EIS	environmental impact statement
FAST Act	Fixing America's Surface Transportation Act
FHWA	Federal Highway Administration
FTA	Federal Transit Administration
MAP-21	Moving Ahead for Progress in the 21st Century Act
MOU	memorandum of understanding
MTA	New York Metropolitan Transportation Authority
NEPA	National Environmental Policy Act of 1969
PAPAI	Project and Program Action Information
SAFETEA-LU	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users
SEPTA	Southeastern Pennsylvania Transportation Authority
state DOT	state department of transportation
TrAMS	Transit Award Management System

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GAO U.S. GOVERNMENT ACCOUNTABILITY OFFICE

441 G St. N.W.
Washington, DC 20548

January 30, 2018

The Honorable John Barrasso
Chairman
The Honorable Tom Carper
Ranking Member
Committee on Environment and Public Works
United States Senate

The Honorable Bill Shuster
Chairman
The Honorable Peter DeFazio
Ranking Member
Committee on Transportation and Infrastructure
House of Representatives

The National Environmental Policy Act of 1969 (NEPA)—which requires federal agencies to evaluate the potential environmental effects of proposed projects on the human environment—has been identified by critics as containing time-consuming requirements and praised by proponents for, among other things, helping protect the environment and bringing public participation into the government's decision making. The Department of Transportation's (DOT) Federal Highway Administration (FHWA) through its division offices in each state and the Federal Transit Administration (FTA) through its 10 regional offices are the federal agencies responsible for NEPA compliance on highway and transit projects, respectively. Project sponsors—typically a state department of transportation (state DOT) or a local transit agency—receive FHWA and FTA grant funds, oversee the construction of highway and transit projects, develop the documents on which FHWA and FTA base their evaluations of environmental effects, and collaborate with federal and state stakeholders. In short, project sponsors generally prepare the documents necessary for NEPA compliance, while the federal agencies must ultimately approve the documents. In this report we refer to these activities collectively as "environmental review" or "NEPA review."

We have previously reported that environmental review is one of a number of factors affecting the time frame for completing transportation projects (delivery).[1] The past three surface transportation reauthorizations—the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) in 2005; the Moving Ahead for Progress in the 21st Century Act (MAP-21) in 2012; and the Fixing America's Surface Transportation Act (FAST Act) in 2015—contain a number of provisions, called "project delivery provisions"—aimed at accelerating the delivery of highway and transit projects, mainly by streamlining the NEPA review process.[2] These provisions include, for example, the *NEPA Assignment Authority* provision, which provides authority for the relevant DOT administration, under certain circumstances, to assign federal NEPA authority to states and thereby eliminate the federal approval role with respect to individual projects.[3] In this case, FHWA and FTA are the relevant DOT administrations to assign NEPA authority to states for highway and transit projects, respectively.

MAP-21 and the FAST Act included provisions for GAO to assess, among other things, whether project sponsors have used the project delivery provisions and the extent to which the provisions have sped up the delivery of highway and transit projects.[4] This report:

- identifies provisions aimed at accelerating the delivery of highway and transit projects that were included in the last three surface transportation reauthorizations;
- examines which provisions were used by state DOTs and selected transit agencies and the provisions' reported effects, if any, on accelerating the delivery of projects; and
- evaluates the extent to which DOT has assigned NEPA authority to states and the reported effects.

[1]GAO, *Highway Projects: Some Federal and State Practices to Expedite Completion Show Promise*, GAO-12-593 (Washington, D.C.: Jun. 6, 2012).

[2]Pub. L. No. 109-59, 119 Stat. 1144 (2005), Pub. L. No. 112-141, 126 Stat. 405 (2012), Pub. L. No. 114-94, 129 Stat. 1312 (2015).

[3]This program is authorized in 23 U.S.C. § 327 and is called the "Surface Transportation Project Delivery Program."

[4]Pub. L. No. 112-141 § 1323, 126 Stat. 405, 553-554 (2012), Pub. L. No. 114-94 § 1318, 129 Stat. 1312, 1404-1405 (2015).

In addition, in appendix I, we identify available information on the number and percentage of the different types of NEPA reviews and the costs of conducting NEPA reviews.

To address the first objective, we reviewed the past three surface reauthorizations to identify highway and transit project delivery provisions and categorized these provisions. To determine states' use and reported effects of the provisions on highway projects, we surveyed state DOTs within all 50 states, the District of Columbia, and Puerto Rico. We had a 100 percent response rate. Based on the survey results, we conducted follow-up interviews with officials from 10 state DOTs to discuss their perceived effects of the provisions in greater detail. We selected these state DOTs to include geographically diverse states and states that reported varying levels of use of the provisions and effects. To determine use and the perceived effects of the provisions applicable to selected transit projects, we selected 11 transit agencies and interviewed officials at those agencies. We selected these agencies based primarily on the number of times they issued a notice of intent to prepare an environmental impact statement (EIS) in the *Federal Register* from 2005 through 2016 to identify those transit agencies that may have experience preparing EISs or some another NEPA review and experience using transit project delivery provisions. We also considered other factors, such as ridership and geographic location, to select the 11 transit agencies. The results of the states' and transit agencies' interviews are not generalizable.

To evaluate the extent to which DOT has assigned NEPA authority to states, and the effects states have reported from assuming NEPA authority, we identified the states that have been assigned NEPA authority, based on information from FHWA, and interviewed state DOT officials in those states. However, we did not include one of these states because that state did not assume NEPA authority until November 2017. For the states we included, we interviewed state DOT officials and reviewed relevant documentation including memorandums of understanding and analyses the state DOTs conducted on NEPA assignment authority, such as methodologies for calculating NEPA assignment time savings. In addition, we interviewed FHWA officials about procedures to oversee the performance of NEPA assignment states and interviewed FHWA division officials from those states. We compared FHWA's procedures to oversee NEPA assignment states against standards for information and communication contained in *Standards for Internal Control in the Federal Government.*[5]

To determine available information on the number and percentage of the different NEPA reviews and costs of conducting NEPA reviews for highway and transit projects, we reviewed relevant publications, documents, and analyses, and discussed these with FHWA and FTA officials.

For all objectives, we interviewed agency officials and stakeholders involved in highway and transit projects including FHWA, FTA, and relevant transportation and environmental organizations. We conducted this performance audit from August 2016 to January 2018 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. For more information on our objectives, scope, and methodology, see appendix II.

Background

FHWA and FTA fund and oversee highway and transit projects, respectively. FHWA funds highway projects through formula grants to state DOTs, provides technical expertise to state DOTs, and conducts oversight of highway projects through its division offices in each state. FTA funds a variety of transit programs through formula and competitive grants and conducts oversight of transit projects' planning and design through 10 regional offices. Completing major highway and transit projects involves complex processes that depend on a wide range of stakeholders conducting many tasks. Project sponsors—the state DOTs and local transit agencies—are the entities that develop the environmental review documents to be approved by the federal agencies. Examples of highway projects that may undergo environmental review are bridge construction or roadway repaving, and examples of transit projects include extension of light rail lines or construction of passenger ferry facilities. Project sponsors that do not use federal funds for a project

[5] GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: September 2014).

generally do not need to meet NEPA requirements, but may still need to satisfy state or local environmental review requirements.[6]

As we have previously reported, highway projects typically include four phases, and transit projects also follow similar processes.[7]

1. *Planning:* Project sponsors assess the need for a project in relation to other potential transportation needs.
2. *Preliminary design and environmental review:* Project sponsors identify potential transportation solutions based on identified needs, the potential environmental and social effects of those solutions, a project's cost, and construction location. They then analyze the effect, if any, of the project and potential alternatives on the environment. Based on the analysis as well as public input the preferred alternative is selected.
3. *Final design and right-of-way acquisition:* Project sponsors finalize design plans and, if necessary, acquire private real property for the project right-of-way and relocate any affected residents and businesses.
4. *Construction:* Project sponsors award construction contracts, oversee construction, and accept the completed project.

In the preliminary design and environmental review phase, many activities are to be carried out by the project sponsor pursuant to NEPA and other federal laws.[8] NEPA's two principal purposes are to ensure (1) that an agency carefully considers detailed information concerning significant environmental impacts and (2) that environmental information is available to public officials and citizens before decisions are made and actions are

[6]There are numerous state and local laws that projects must comply with. For example, several states, including California and North Carolina, have laws roughly equivalent to NEPA. GAO-12-593.

[7]GAO-12-593.

[8]Agencies also use the NEPA framework to meet other environmental review requirements, such as requirements under the Endangered Species Act, the Clean Water Act, and the National Historic Preservation Act. Federal resource agencies, such as the U.S. Army Corps of Engineers and Fish and Wildlife Service, are responsible for managing and protecting natural and cultural resources like wetlands, historic properties, and wildlife. We have ongoing work on the environmental permitting by federal resource agencies for highway and transit projects and plan to publish our work in spring 2018.

taken.[9] For highway and transit projects, the project sponsor is responsible for preparing documentation showing the extent of the project's environmental impacts, in accordance with NEPA, and determining which of the three following documentation types is needed:

- An environmental impact statement (EIS), the most comprehensive of the three documentation types, is required for projects that have a significant effect on the environment. In broad terms, the lead federal agency, FHWA or FTA, starts the EIS process by publishing a notice of intent in the *Federal Register*. The lead agency then must engage in an open process—inviting the participation of affected government agencies, Indian tribes, the proponent of the action, and other interested persons—for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. The lead agency then is to coordinate as appropriate with resource agencies, such as the U.S. Army Corps of Engineers or the Fish and Wildlife Service, solicit comments from the public on a draft EIS, incorporate comment responses as appropriate into a final EIS, and issue a record of decision.[10]
- Project sponsors are to prepare environmental assessments when, among other things, it is not clear whether a project is expected to have significant environmental impacts. An environmental assessment is intended to be a concise document that, among other things, briefly provides sufficient evidence and analysis for determining whether to prepare an EIS. If the agency determines that there are no significant impacts from the proposed action, then the agency prepares a Finding of No Significant Impact that presents the reasons why the agency made that determination. If the agency determines the project may cause significant environmental impacts, it conducts an EIS.
- Categorical exclusions refer to projects that would not individually or cumulatively have a significant effect on the environment. These projects generally require no or limited environmental review or documentation under NEPA. Examples of highway projects that are

[9]Pub. L. No. 91-190 (1970), codified at 42 U.S.C. §§ 4321-4347.

[10]The EIS must, among other things, (1) describe the environment that will be affected, (2) identify alternatives to the proposed action, including the no action alternative, and identify the agency's preferred alternative, (3) present the environmental impacts of the proposed action and alternatives, (4) identify any adverse environmental impacts that cannot be avoided should the proposed action be implemented and discuss means to mitigate adverse impacts.

generally processed as categorical exclusions include resurfacing roads, constructing bicycle lanes, installing noise barriers, and landscaping.

While FHWA and FTA are the federal agencies responsible for ensuring NEPA compliance on highway and transit projects, if certain requirements are met, FHWA or FTA may assign a state and that state may assume federal NEPA authority. States assume this authority subject to the same procedural and substantive requirements as would apply to FHWA or FTA. Specifically, the *NEPA Assignment Authority* provision provides authority for FHWA to assign federal NEPA authority to states for approving an EIS, environmental assessment, or categorical exclusion. States must apply to FHWA or FTA, which reviews the state's suitability to assume the authority based on meeting certain regulatory requirements and the state's capability to assume the responsibility. States must enter into a written memorandum of understanding (MOU) and must, among other things, expressly consent to the jurisdiction of federal courts by waiving sovereign immunity for any responsibility assumed for NEPA. The MOU is for a term of not more than 5 years and is renewable. MOUs are unique to each state; however they all contain certain sections such as assignments of authority, acceptance of jurisdiction, and performance measures. For the first 4 years, FHWA is to conduct an annual audit to ensure compliance with the MOU, including compliance with all federal laws. After the fourth year, FHWA is to continue to monitor state compliance with the MOU, using a more limited review.[11]

In prior reports, we identified a number of factors that can affect the length of time required to complete transportation projects. For highway projects, we found that the large number of stakeholders and steps (which include environmental reviews) in the project delivery process, availability of funding, changing priorities, and public opposition can lead to longer project time frames.[12] For transit projects, we found that local factors specific to each project determine the project development time frame, including the extent of community support and extent of local planning prior to approval of funding.[13] We found that for 32 projects we

[11]23 U.S.C. § 327(h).

[12]GAO-12-593.

[13]GAO, *Public Transit: Length of Development Process, Cost Estimates, and Ridership Forecasts for Capital-Investment Grant Projects*, GAO-14-472 (Washington D.C.: May 30, 2014).

reviewed, the environmental review process was tied with stakeholder coordination as the third most frequently cited factor by transit project sponsors contributing to the length of the project development process.

The Three Most Recent Transportation Authorizations Included Numerous Provisions for Accelerating Highway and Transit Project Delivery

We identified 34 project delivery provisions that apply to highway projects and 29 such provisions that apply to transit projects.[14] These provisions are intended to streamline various aspects of the NEPA process, making it more efficient and timely. Most of the provisions apply to both types of projects. Based on our review, we grouped the provisions into four general categories: *Accelerated NEPA Review, Administrative and Coordination Changes, NEPA Assignment, and Advance Planning* (see table 1). See appendix III for the full list and a description of each project delivery provision we identified.

Table 1: Number of Project Delivery Provisions GAO Identified, Grouped by Category for Highway and Transit Projects

Category	Highway projects	Transit projects
Accelerated National Environmental Policy Act (NEPA) Review[a]	12	10
Administrative and Coordination Changes	17	17
NEPA Assignment	2	2
Advance Planning	3	0
Total provisions:	**34**	**29**

Source: GAO analysis of Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users; the Moving Ahead for Progress in the 21st Century Act; and the Fixing America's Surface Transportation Act. | GAO-18-222

[a]In the Accelerated NEPA Review category, 5 provisions apply to both highway and transit projects, 7 apply exclusively to highway projects, and 5 apply exclusively to transit projects.

The *Accelerated NEPA Review* category's provisions generally establish certain conditions that permit projects, if the specific conditions are applicable, to exclude certain actions from a more detailed NEPA review. For instance, these provisions are primarily comprised of new categorical

[14]In order to separately identify each applicable provision, we combined provisions that were modified in later statutory language and did not specify among different versions of the provisions.

exclusions. Additionally, the *Minor Impacts to Protected Public Land* provision authorizes a historic site, parkland, or refuge to be used for a transportation project if that project is determined to have a *de minimis* impact on the environment.[15]

The *Administrative and Coordination Changes* category's provisions are more process oriented. These provisions, for example: (1) establish time frames for parts of the NEPA review process, (2) encourage the use of planning documents and programmatic plans as well as a coordination plan for public and federal agency participation in the environmental review process, and (3) seek to avoid duplication in NEPA review documents.

The *NEPA Assignment* category's provisions authorize FHWA or FTA, as discussed above, to assign their NEPA authority to states. The first of the two provisions—the 'NEPA Assignment Authority' provision—authorizes FHWA or FTA to assign federal NEPA authority to states for reviewing EIS, environmental assessment, and some categorical exclusion reviews, so long as the categorical exclusion does not require an air-quality review that involves the Environmental Protection Agency. The second provision—the *Categorical Exclusion Determination Authority* provision—allows FHWA or FTA to assign limited NEPA authority to states to review categorical exclusions.[16] This authority can apply to categorical exclusions with air-quality reviews, as well as all other categorical exclusions.

The *Advance Planning* category's provisions are not part of the agency's environmental review process and are not applicable to transit projects. These provisions allow for certain activities in the highway project development cycle, such as land acquisition, to occur prior to NEPA approval. The three provisions in this category include the following:

[15]This provision is commonly referred to as "4(f) *de minimis*." A *de minimis* impact is one that is minor in nature and after taking into account avoidance, minimization, mitigation, and enhancement measures results in no adverse effect to the activities, features, or attributes qualifying a park, recreation area, or wildlife and waterfowl refuge for protection under Section 4(f).

[16]A state can assume responsibility for certain categorical exclusions under 23 U.S.C. § 326. This program is formally known as the "State Assumption of Responsibility for Categorical Exclusions."

- The *Advance Design-Build Contracting* provision permits a state to release requests for proposals and award design-build contracts prior to completing the NEPA process; however, a contractor may not proceed with final design or construction during the NEPA process.[17]
- The *Advance Acquisition of Real Property* provision authorizes states to acquire real property interests, such as land, for a project before completion of the NEPA process.
- The *2-phase Contracts* provision authorizes the awarding of contracts on a competitive basis for preconstruction services and preliminary project design before the completion of the NEPA process.

Most of the project delivery provisions are optional, which we define to mean that the relevant entities (a federal agency or state or local transportation agency), can choose to use the provision if circumstances allow. For example, a state highway project within an existing operational right-of-way may have the option to use the categorical exclusion for projects within an existing operational right-of-way. Specifically, 22 of the 34 highway project delivery provisions and 17 of the 29 transit project delivery provisions are optional. By contrast, 12 provisions are requirements for both highway and transit projects, which we define to mean that federal agencies, or state or local transportation agencies that are subject to a provision must adhere to the requirements and obligations in the provision, if all the conditions for its use have been satisfied. Required provisions are primarily contained in the *Administrative and Coordination Changes* category. For example, for highway projects, the *Programmatic Agreements for Efficient Environmental Review* provision, enacted in 2012, requires FHWA to seek opportunities with states to enter into agreements that establish streamlined processes for handling routine projects, such as highway repair. Prior to 2012, FHWA actively encouraged programmatic agreements between state DOTs and FHWA division offices, but seeking opportunities to enter such agreements were not required.

[17]Design-build is a contracting method that combines the responsibilities for designing and constructing a project in a single contract instead of the more traditional approach of separating these responsibilities.

State DOTs Reported That a Number of Provisions They Used Sped Up Highway Project Delivery, While for Most Selected Transit Agencies Effects Were Unclear

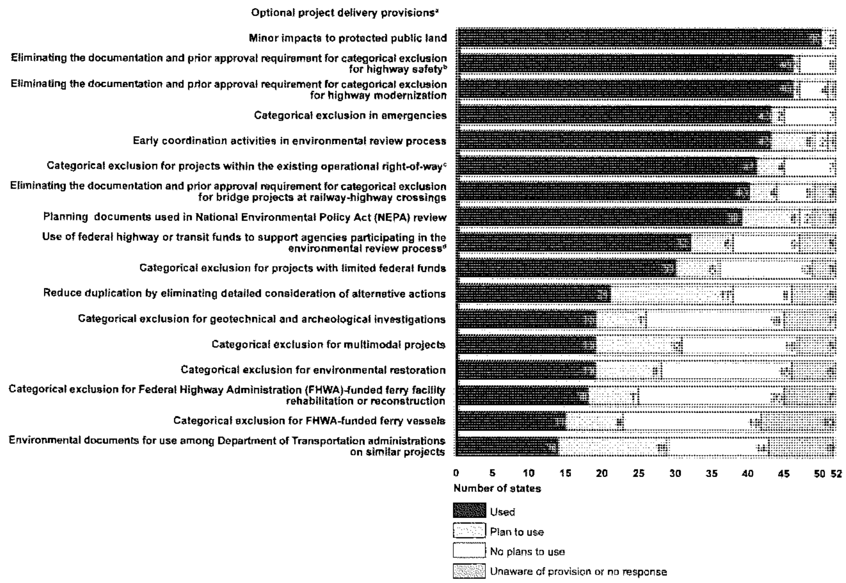
More Than Half of Optional Provisions Were Reported to Be Used by a Majority of State DOTs on Highway Projects

According to survey responses, 10 of the 17 optional provisions included in the survey—which primarily fall under the *Accelerated NEPA Review* category—were each used by 30 or more state DOTs (see fig. 1).[18] Fifty state DOTs reported using the *Minor Impacts to Protected Public Land* provision—the most of any of the provisions. Some of the less widely used provisions—the 7 provisions reported to be used by 21 or fewer states—only apply to specific circumstances or highway projects that many state DOTs undertake less frequently. For example, the *Categorical Exclusion for FHWA-funded Ferry Facility Rehabilitation or Reconstruction* provision would only apply to states that operate ferry services, a circumstance that may explain its relatively low use. Also, for 3 of these 7 provisions, 10 or more states reported that they plan to use the provision in the future. For example, while 21 state DOTs used the *Reduce Duplication by Eliminating Detailed Consideration of Alternative Actions* provision, an additional 17 state DOTs reported that they plan to

[18]Our survey of state DOTs included 17 of the 22 optional provisions and all 12 required provisions that apply to highway projects. We did not include the 3 provisions from the *Advance Planning* category, which do not directly relate to NEPA review, as part of our 52-state DOT survey; we addressed these provisions in the follow-up interviews with the 10 selected state DOTs and discuss our findings later in this section. We also did not include the 2 provisions from the *NEPA Assignment* category because we spoke individually with officials in all of the states that have implemented or are in the process of implementing these provisions. We discuss these provisions later in the report.

use it.[19] All of the optional provisions were reported to be used by at least 14 state DOTs.

Figure 1: Number of States That Used Optional Project Delivery Provisions as Reported by Departments of Transportation in 50 States, the District of Columbia, and Puerto Rico



Source: GAO analysis of survey responses from 52 state departments of transportation. | GAO-18-222

[a]We define "optional" provisions to mean that the relevant entity (a federal agency or state or local transportation agency) can choose to use the provision if circumstances allow.

[19]The *Reduce Duplication by Eliminating Detailed Consideration of Alternative Actions* provision authorizes the lead agency to reduce duplication, by eliminating from detailed consideration an alternative proposed in an EIS if the alternative was already proposed in a planning process or state environmental review process.

[b]"Categorical exclusion" means a category of actions that do not individually or cumulatively have a significant effect on the human environment, and for which, therefore, neither an environmental assessment nor an environmental impact statement is required.

[c]The existing operational right-of-way refers to a strip of land that has been disturbed for an existing transportation facility or is maintained for transportation purposes, such as a highway, public footpath, or rail bed, landscaping, or rest areas with direct access to a controlled access highway.

[d]Funds may be provided: for transportation planning activities that precede the initiation of the environmental review process, for dedicated staffing, for training of agency personnel, for information gathering and mapping, and for development of programmatic agreements.

Some states reported that they have not used certain provisions and have no plans to do so. Our survey served as a nationwide review of the use of the provisions and was not designed to determine why each state did or did not use each provision. However, our discussions with selected states and optional comments provided in the survey provided some additional insight into states' use of the provisions. Officials at some state DOTs reported that they had not used certain categorical exclusions because other categorical exclusions could also apply to those projects. Specifically, officials in 4 state DOTs told us that they did not use 4 categorical exclusion provisions for this reason. For example, officials at the Colorado DOT said that the *Categorical Exclusion for Geotechnical and Archeological Investigations* provision has not been used in Colorado because other categorical exclusions were more applicable.[20] Similarly, officials at the Oklahoma DOT said that they had not used the *Categorical Exclusion for Projects within the Existing Operational Right-of-Way* provision because most of those projects already qualify for a categorical exclusion under other criteria.[21] For other provisions, such as the *Categorical Exclusion for Multimodal Projects* provision, some state DOTs, such as the Nebraska DOT, indicated that they do not conduct multimodal projects and have no plans to do so for the foreseeable future.[22]

[20]The *Categorical Exclusion for Geotechnical and Archeological Investigations* provision for highway projects designates a categorical exclusion for geotechnical and archeological investigations to provide information for preliminary design.

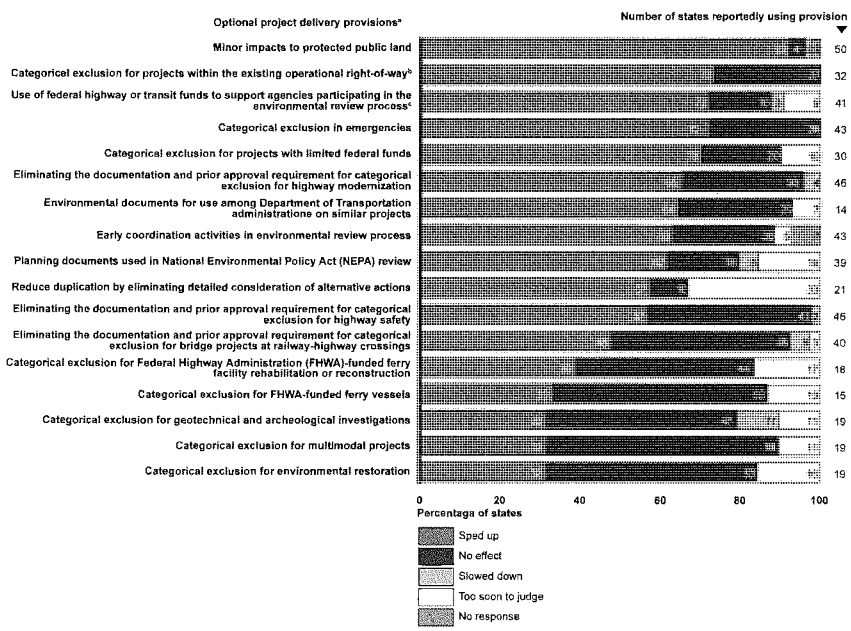
[21]The *Categorical Exclusion for Projects within the Existing Operational Right-of-Way* provision designates a project within an existing operational right-of-way as a categorical exclusion.

[22]The *Categorical Exclusion for Multimodal Projects* provision authorizes a DOT operating administration to apply a categorical exclusion of another DOT operating administration to a multimodal project.

About Two-Thirds of the Optional Provisions Reportedly Sped Up Highway Project Delivery for the Majority of Users

For 11 of the 17 optional provisions included in our survey, a majority of state DOTs that indicated they used the provisions (users) reported that the provisions sped up project delivery (see fig. 2).

Figure 2: Percentage of Departments of Transportation in 50 States, the District of Columbia, and Puerto Rico That Reported Various Effects of Used Optional Highway Project Delivery Provisions



Source: GAO analysis of survey responses from 52 state departments of transportation. | GAO-18-222

[a]We define "optional" provisions to mean that the relevant entity (a federal agency or state or local transportation agency) can choose to use the provision if circumstances allow.

[b]"Categorical exclusion" means a category of actions that do not individually or cumulatively have a significant effect on the human environment, and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. The existing operational right-of-way refers to a strip of land that has been disturbed for an existing transportation facility or is maintained for transportation purposes, such as a highway, public footpath, or rail bed, landscaping, or rest areas with direct access to a controlled access highway.

[c]Funds may be provided: for transportation planning activities that precede the initiation of the environmental review process, for dedicated staffing, for training of agency personnel, for information gathering and mapping, and for development of programmatic agreements.

Over 90 percent of users of the *Minor Impacts to Protected Public Land* provision reported that it sped up project delivery (46 out of 50 state DOTs using the provision). FHWA officials said that without the *Minor Impacts to Protected Public Land* provision, a state DOT would need to complete an environmental assessment to show that performing even a small project, such as adding a small bus stop on the periphery of a park, would not have significant effects on the environment.[23] The *Minor Impacts to Protected Public Land* provision now allows a state DOT to complete transportation projects that have a minimal environmental effect on historic sites and parklands more quickly because the state DOT can bypass the environmental assessment process. In our survey and discussions with state DOTs, some officials noted how much time the provision can help them save.[24] Officials at the Virginia DOT estimated that a 9-month to 1-year review could be cut to 2 to 4 months.[25] An official at the Colorado DOT said that reviews that used to take 6 months now take 30 days. And officials at the Mississippi DOT said that they used the provision when adding turn lanes near parks and were able to bypass a review process that previously took 6 to 12 months.

Other examples of sped-up project delivery provided by state DOTs include the following:

[23]Prior to the enactment of this provision, we reported in May 2003 on stakeholders' views about aspects of the environmental review process that add time to the process for transportation projects. We found that 9 of 16 selected stakeholders reported that the statutory "4(f)" requirement protecting properties on historic sites and parkland was burdensome. GAO, *Highway Infrastructure: Stakeholders' Views on Time to Conduct Environmental Reviews of Highway Projects*, GAO-03-534 (Washington, D.C.: May 23, 2003).

[24]We gathered examples of the effects of the provisions, including time savings, both through the follow-up interviews we conducted with officials at 10 state DOTs and in the optional areas for comments included in the survey.

[25]We did not independently verify state DOT officials' estimates of time savings.

- *Categorical Exclusion in Emergencies* provision: Mississippi DOT officials said that this provision has been helpful, particularly given project delivery lessons learned since Hurricane Katrina. They said the provision allows the state DOT to use a categorical exclusion, which takes 6 to 8 months for some projects, in place of an environmental assessment, which can take 12 to 18 months and involves additional review steps such as providing evidence and analysis as to why a project does not require an EIS.[26]
- *Use of Federal Highway or Transit Funds to Support Agencies Participating in the Environmental Review Process* provision: Arizona DOT officials said that the state DOT funds positions in the Army Corps of Engineers and the Fish and Wildlife Service that help lessen the time it takes for those agencies to provide comments on Arizona DOT project's NEPA reviews. The officials estimated these positions reduce review time by about one month compared to when these agencies did not have Arizona DOT-funded positions.[27]

For the remaining six optional provisions, 41 to 58 percent of users reported that the provisions had no effect on project delivery. Based on discussions with selected state DOTs and comments included with survey responses, officials at some state DOTs reported that the provisions did not have any effect because the states had already developed similar processes, either through programmatic agreements with their FHWA division office or at their own initiative. As a result, the state DOTs did not realize any new time savings after the provisions were enacted in law. For example, for each of three provisions that allow for certain documentation to be eliminated for categorical exclusions, officials at seven state DOTs reported that they had already developed similar processes through

[26]The *Categorical Exclusion in Emergencies* provision designates the repair or reconstruction of any road, highway, or bridge that was damaged by an emergency as a categorical exclusion.

[27]The *Use of Federal Highway or Transit Funds to Support Agencies Participating in the Environmental Review Process* provision allows a public entity to use its federal highway or transit funds to support a federal or state agency or Indian tribe participating in the environmental review process on activities that directly contribute to expediting and improving project planning and delivery.

programmatic agreements with their FHWA division office.[28] Further, five state DOTs reported that the *Early Coordination Activities in Environmental Review Process* provision had no effect because they already had a similar coordination process in place. Some states used such a process at their own initiative and others in conjunction with their FHWA division office.[29]

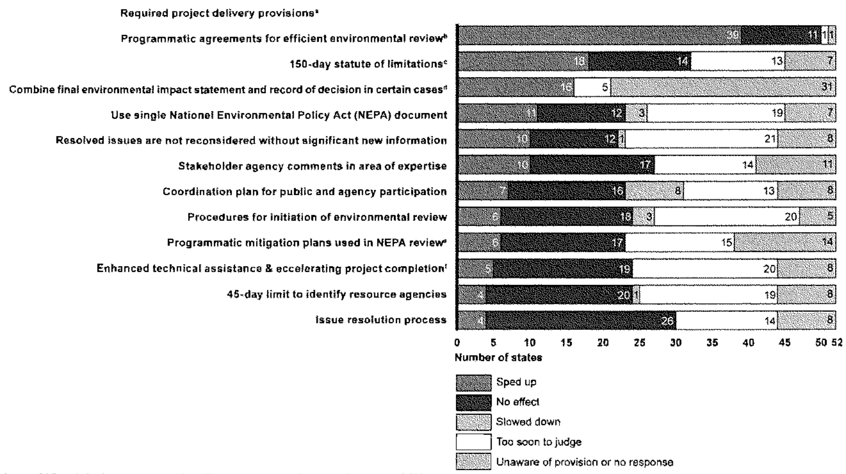
Among Required Provisions, about Three-Quarters of State DOTs Reported That "Programmatic Agreements" Helped Speed Up Highway Projects, While the Effects Are Mixed for Other Provisions

Of the 12 required provisions—which fall into the *Administrative and Coordination Change* category—only the *Programmatic Agreements for Efficient Environmental Review* provision was reported by a majority of state DOTs (39) to have sped up project delivery (see fig. 3). For example, officials at the Mississippi DOT reported that a programmatic agreement with the FHWA division office can allow it to save 6 to 8 months when processing categorical exclusions for projects with minimal right-of-way acquisition. They explained that they no longer had to wait for the FHWA division office to process the categorical exclusion. As previously discussed, prior to 2012, FHWA actively encouraged, but did not require, programmatic agreements between state DOTs and FHWA division offices. In interviews and optional comments from the survey, officials reported that programmatic agreements, both those entered into before and after the enactment of the provision, had sped up project delivery. We did not determine the number of state DOTs that attributed the speed up in project delivery to the 2012 provision, as opposed to those who attributed it to the earlier programmatic agreements with their FHWA division offices. All of the required provisions reportedly sped up project delivery for at least 4 state DOTs.

[28]The *Eliminating the Documentation and Prior Approval Requirement for Categorical Exclusion for Bridge Projects at Railway-Highway Crossings* provision designates bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade railroad crossings, as a categorical exclusion. The *Eliminating the Documentation and Prior Approval Requirement for Categorical Exclusion for Highway Modernization* provision designates resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes as a categorical exclusion. The *Eliminating the Documentation and Prior Approval Requirement for Categorical Exclusion for Highway Safety* provision designates highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting, as a categorical exclusion.

[29]The *Early Coordination Activities in Environmental Review Process* provision encourages early cooperation between DOT and other agencies, including states or local-planning agencies, in the environmental review process to avoid delay and duplication, and suggests early coordination activities. Early coordination includes establishment of MOUs with states or local-planning agencies.

Figure 3: Number of Departments of Transportation in 50 States, the District of Columbia, and Puerto Rico That Reported Various Effects of the Required Highway Project Delivery Provisions



Source: GAO analysis of survey responses from 52 state departments of transportation. | GAO-18-222

[a]We define "required" provisions to mean that federal agencies, or state or local transportation agencies that are subject to a provision must adhere to the requirements and obligations in the provision, if all the conditions for its use have been satisfied.

[b]"Programmatic agreements" are agreements between state departments of transportation and their Federal Highway Administration division office on processes and procedures to carry out environmental reviews and other required project reviews.

[c]The provision bars judicial review of claims unless they are timely filed.

[d]There may be instances in which a combined document is not the best option.

[e]Once states or metropolitan planning organizations decide to use such plans, federal agencies must give substantial weight to the plans.

[f]Once a project sponsor or governor requests assistance, the Department of Transportation is required to provide it.

For 5 of the 12 provisions, between 10 and 18 states responded that the provisions sped up project delivery. For example, officials at the Ohio DOT estimated that the *Combine Final Environmental Impact Statement and Record of Decision in Certain Cases* provision saves them a minimum of 3 months. For the remaining 6 provisions, between 4 and 7 states reported that the provisions sped up project delivery, but each of these provisions also had at least 16 states that reported the provision had no effect on project delivery. Our survey served as a broad-based review of the effects of the provisions and was not designed to determine why each provision had the reported effects; however, some states provided voluntary comments in the survey. As with various optional provisions, some state DOT officials reported no effect because the state had already developed processes and practices that they said achieved what the provisions formalized, for example:

- *Coordination Plan for Public and Agency Participation* provision: In discussions and from optional comments, 4 state DOTs said that they already had a similar process in place. Officials at the Louisiana DOT stated that they performed a similar process prior to the 'Coordination Plan for Public and Agency Participation' provision's enactment in law in an effort to coordinate with the public and other government agencies.[30]
- *45-Day Limit to Identify Resource Agencies* provision: In interviews and optional survey comments, officials at 2 state DOTs said that they already had a similar process in place to promptly identify stakeholder agencies.[31]
- *Issue Resolution Process* provision: Wyoming DOT officials said that they had been performing a similar process prior to this provision's enactment in law to ensure consensus among stakeholders.[32]

Some state DOTs reported that it was too early to determine the effects of several provisions, particularly more recently enacted provisions. For 5 of the 12 required provisions, more than one third of state DOTs (over 17 states) reported that it was too soon to judge the provisions' effects. Four of these 5 provisions were enacted in the FAST Act in 2015. Consequently, state DOTs that used the provision had a short window of

[30]The *Coordination Plan for Public and Agency Participation* provision requires a coordination plan for public and agency participation in the environmental review process within 90 days of notice of intent or the initiation of an environmental assessment, including a schedule for completion of the environmental review process for the project.

[31]The *45-Day Limit to Identify Resource Agencies* provision establishes a 45-day limit after the notice of intent date for a lead agency to identify other agencies to participate in the environmental review process on EIS projects.

[32]The *Issue Resolution Process* provision establishes procedures to resolve issues between state DOTs and relevant resource agencies.

time to assess any potential effect on project delivery—particularly given that highway projects often take a number of years to complete. Also, while our survey did not ask state DOTs when they had most recently initiated an EIS, several state DOTs voluntarily noted that they had not done so since the FAST Act. Certain provisions apply only to projects undergoing an EIS; states that have not done an EIS since such provisions were enacted would not have had the opportunity to use the provision. One such provision is the *45-Day Limit to Identify Resource Agencies* provision, for which 19 state DOTs reported that it was too early to judge the effects.

For 5 of the 12 provisions, a relatively few state DOTs, between one and eight, reported that the provision had slowed down project delivery. Eight states reported that the *Coordination Plan for Public and Agency Participation* provision slowed down project delivery, the most for any provision. According to the Minnesota DOT, this provision slowed down project delivery because it formalized and required a specific coordination process in addition to those that had already been voluntarily occurring with relevant federal and state resource agencies. Formalizing this process resulted in resource agencies taking longer to provide responses to the Minnesota DOT. Other states similarly said that this provision's additional formal processes slowed down project delivery.

We defined required provisions to mean that federal agencies or state or local transportation agencies that are subject to the provision must adhere to requirements and obligations in the provision, if all the conditions for its use have been satisfied. States may not have had the opportunity to apply some of the required provisions that apply to them because they did not have exposure to the circumstances and conditions that would invoke this provision's use. For example, a state would not be exposed to the *150-Day Statute of Limitations* provision if it had not been subject to a lawsuit.[33] Unlike the optional provisions, we did not ask states whether they elected to use the required provisions since state DOTs, if

[33]The *150 Day Statute of Limitations* provision bars claims seeking judicial review of a permit, license, or approval issued by a federal agency for highway projects unless they are filed within 150 days after publication of a notice in the *Federal Register* announcing the final agency action, or unless a shorter time is specified in the federal law under which the judicial review is allowed.

subject to the provision, must adhere to the requirements and obligations in the provision.[34]

Selected State DOTs Reported Using the Three Advance Planning Provisions That Affect Project Delivery but Precede NEPA Review

Two of the three provisions from the *Advance Planning* category were used by a majority of the 10 state DOTs we interviewed, and most of the state DOTs that used each provision stated that it sped up project delivery. This use is illustrated more specifically:[35]

- *Advance Design-Build Contracting* provision: 8 state DOTs used this provision, 5 of which reported it sped up highway project delivery.[36]
- *Advance Acquisition of Real Property* provision: 6 state DOTs used this provision, 4 of which reported it sped up highway project delivery.[37]
- *2-phase Contracts* provision: 5 state DOTs used this provision, 4 of which reported it sped up highway project delivery.[38]

Some state DOT officials provided examples of how the provisions affected their project delivery. For example, California DOT officials said that the *Advance Acquisition of Real Property* provision saved them a few months on small projects, involving one or two parcels of land; for a large project involving hundreds of commercial and residential parcels, they estimated time savings of more than a year. Similarly, Illinois DOT officials said that the provision has yielded time savings of 6 months to a year in instances where the DOT needs to purchase residential property.

[34]Based on optional comments from the survey, we found that states that had not had the opportunity to apply a required provision may have responded that the provision either had no effect or that it was too soon to judge its effect.

[35]We did not include provisions from the *Advance Planning* category in our survey because the primary survey respondents were not cognizant of these provisions, as they do not directly relate to the NEPA process.

[36]The *Advance Design-Build Contracting* provision permits states or local transportation agencies to release requests for proposals and award design-build contracts prior to the completion of the NEPA process; however it precludes a contractor from proceeding with final design or construction before completion of the NEPA process.

[37]The *Advance Acquisition of Real Property* provision authorizes states to acquire real property interests for a project before completion of the NEPA process.

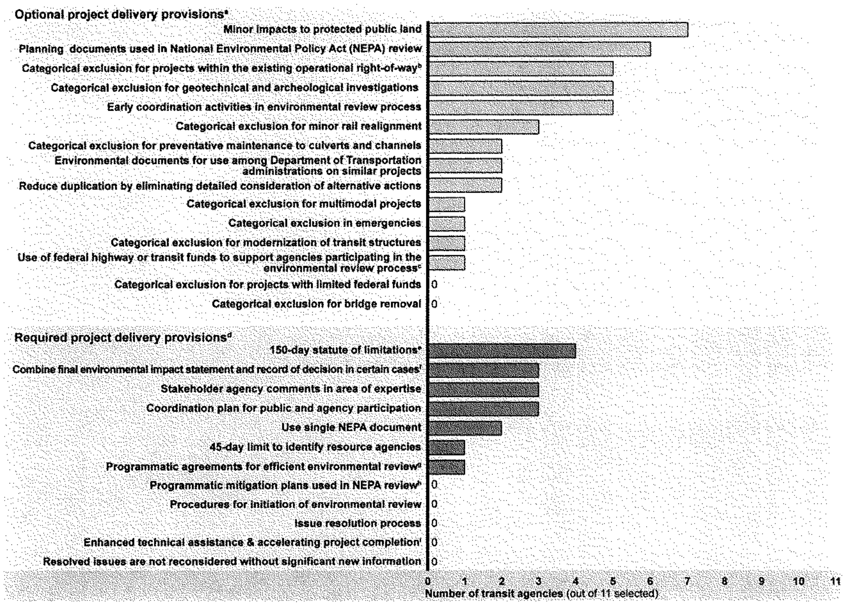
[38]The *2-phase Contracts* provision authorizes the awarding of 2-phase contracts (construction manager/ general contractor) with preconstruction services and preliminary design of a project using a competitive selection process before the completion of the NEPA process.

Most Project Delivery Provisions Were Used by Selected Transit Agencies, but the Provisions' Effects on Project Delivery Were Generally Unclear

More than two-thirds of the provisions designed to speed up transit project delivery were reportedly used by 11 selected transit agencies. We asked officials in selected transit agencies to report their use of 29 project delivery provisions applicable to transit agencies, 17 of which are optional and 12 of which are required.[39] Of the 29 provisions, 6 were used by 4 or more selected transit agencies (see fig. 4). The most used optional provision, by 7 transit agencies, was the *Minor Impacts to Protected Public Land* provision described earlier followed by the *Planning Documents Used in NEPA Review* provision, used by 6 transit agencies.

[39]Selected transit agencies may report not using a required provision because the conditions stated in the provision are not present, as we mentioned earlier. For example, the *Issue Resolution Process* provision, a required provision, is only required when a dispute arises that cannot be resolved otherwise.

Figure 4: Number of 11 Selected Transit Agencies That Reported Using Transit Project Delivery Provisions



Source: GAO analysis of responses from 11 selected transit agencies. | GAO-18-222

[a]We define "optional" provisions to mean that the relevant entity (a federal agency or state or local transportation agency) can choose to use the provision if circumstances allow. This figure does not include the two optional *NEPA Assignment* category's provisions—*NEPA Assignment Authority* provision and *Categorical Exclusion Determination Authority* provision.

[b]"Categorical exclusion" means a category of actions that do not individually or cumulatively have a significant effect on the human environment, and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. The existing operational right-of-way refers to a strip of land that has been disturbed for an existing transportation facility or is maintained for transportation purposes, such as a highway, public footpath, or rail bed, landscaping, or rest areas with direct access to a controlled access highway.

[c]Funds may be provided: for transportation planning activities that precede the initiation of the environmental review process, for dedicated staffing, for training of agency personnel, for information gathering and mapping, and for development of programmatic agreements.

[d]We define "required" provisions to mean that federal agencies or state or local transportation agencies that are subject to a provision must adhere to the requirements and obligations in the provision, if all the conditions for its use have been satisfied.

[e]The provision bars judicial review of claims unless they are timely filed.

[f]There may be instances in which a combined document is not the best option.

[g]"Programmatic agreements" are agreements between state departments of transportation and their Federal Highway Administration division office on processes and procedures to carry out environmental reviews and other required project reviews.

[h]Once states or metropolitan planning organizations decide to use such plans federal agencies must give substantial weight to the plans.

[i]Once a project sponsor or governor requests assistance, the Department of Transportation is required to provide it.

Some transit agencies told us that the provisions they used sped up project delivery. In addition, some provided estimated time savings.[40]

- Chicago Transit Authority (CTA) officials told us that the *Minor Impacts to Protected Public Land* provision was extremely helpful for recent CTA projects involving historic properties. For example, CTA has implemented projects that involve track work at a station that is adjacent to a historic boulevard. They estimated that the *Minor Impacts to Protected Public Land* provision has reduced the time to complete documentation by several months. Similarly, a Tri-County Metropolitan Transportation District of Oregon official stated the *Minor Impacts to Protected Public Land* provision has been instrumental since in the past, the agency would have to stop the project if it affected a park land.
- Southeastern Pennsylvania Transportation Authority (SEPTA) officials told us that they used the *Categorical Exclusion for Minor Rail Realignment* provision one or two times within the past 2 years. SEPTA estimated the provision saved the agency several months in time savings per project. Officials stated that the provision allowed the SEPTA to use a categorical exclusion in place of an environment assessment. SEPTA officials also said they saved staff time and approximately $100,000 a year in consultant fees and agency staff resources by using the *Categorical Exclusion for Preventative Maintenance to Culverts and Channels* provision.
- Capital Metro officials in Austin, Texas, told us they used the *Categorical Exclusion for Projects within the Existing Operational Right-of-Way* provision for a rail right-of-way project. They estimated the provision helped save at least 4 to 6 months in project delivery

[40]We did not verify transit agencies' cost savings estimates resulting from the provisions.

because the agency was not required to do an environmental assessment.

While some selected transit agencies reported using some provisions and added that this provision's use helped speed up project delivery or lower costs, the effects of the provisions—whether they sped up project delivery or streamlined the NEPA review process—were not clear to a majority of the selected transit agencies. Because transit agencies in our review do not track NEPA reviews—including their start and end dates—they were not able to assess how project time frames or costs were affected by the provisions. Officials from several selected transit agencies told us that their understanding of the project delivery provisions' effects was also limited by their reliance on engineering and environmental-planning consultants to prepare their NEPA documents. Officials from 4 of the 11 transit agencies told us that they rely on these consultants' knowledge of the provisions to prepare their NEPA documents. Further, officials from 1 transit agency said they required the assistance of their consultants to respond to our requests for information.

Nine of the 29 provisions were not used by any of the agencies, and no provision was used by more than 7 agencies. Our discussions with selected transit agency and FTA officials provided some insight into transit agencies' use of the provisions, specifically:

- *Limited transit projects needing EISs*: Transit agencies that do not prepare EISs may have fewer opportunities to use some of the provisions. Following discussions with FTA officials, we examined the number of times transit agencies filed a notice of intent to prepare an EIS in the *Federal Register* from 2005 through 2016 as a proxy to identify those transit agencies that would likely use a number of the project delivery provisions.[41] We found that 48 transit agencies (out of several hundreds of transit agencies) filed notices of intent from fiscal year 2005 through 2016 but that of the 48 transit agencies, 34 had filed a notice of intent only once during that time. In general, the vast majority of transit agencies have little recent experience preparing EIS documentation and using the provisions that are triggered by an

[41]FTA, as the lead federal agency, starts the EIS process by publishing a notice of intent in the *Federal Register* on behalf of the local transit agency. We used this approach because transit agencies that have prepared EIS documents would likely have experience and insight into environmental actions broadly speaking; however, we recognize that some transit agencies may have less experience with EIS provisions and more experience using other provisions related to categorical exclusions.

EIS.[42] For example, only one transit agency (Tri-County Metropolitan Transportation District of Oregon) had filed a notice of intent to prepare an EIS after the FAST Act was enacted in 2015.

- *Duration of transit projects:* Some instances where transit project delivery provisions were not used could be due to the number of years it takes to complete transit projects. According to FTA officials, where sponsors for highway projects may have new projects initiating and requiring NEPA reviews on a rolling basis, transit agencies operate differently. A transit agency may have a project that goes through a NEPA review and then begins construction of the project that can last a number of years. The transit agency may not have another project that requires an EIS for several years. For example, New York Metropolitan Transportation Authority (MTA), the largest transit agency by ridership in the country, completed its last EIS review in 2004 and has since been working on construction of that project, according to FTA officials. While MTA has been receiving FTA funds for construction, no additional project has undergone an EIS.
- *Changing provisions and delayed guidance:* Some transit agency officials told us that the changing provisions across the three enacted surface transportation authorization acts pose challenges to using the project delivery provisions. Understanding the changes in the project delivery provisions—for example, changes in categorical exclusions—included in SAFETEA-LU, MAP-21, and the FAST Act was challenging according to some selected transit agencies. Further, some transit agency officials stated that the lag time in receiving guidance from FTA on the changing provisions also posed challenges to using some of the provisions.

[42]Ten agencies filed a notice of intent two times between these years and four agencies filed a notice of intent three or more times between these years.

DOT's FHWA Has Assigned Six States NEPA Authority, and Two States Reported Time Savings, but FHWA Has Not Provided Guidance on Measuring Effects

DOT, specifically FHWA, has assigned its NEPA approval authority to six states, and other states are interested in this authority. Of the six states, California and Texas have completed some NEPA reviews and determined they have achieved time savings through state approval of NEPA documents rather than federal approval. However, we found the reported time savings to be questionable for several reasons, including challenges faced by California and Texas in establishing sound baselines for comparison. Despite this finding, the reported time-savings information is used by other states to seek out NEPA authority and in reporting to DOT and Congress. FHWA focuses its oversight of NEPA assignment states on ensuring these states have the processes in place to carry out FHWA's NEPA responsibilities, according to a written agreement between each state and FHWA, and does not focus on determining whether states are achieving time savings.

FHWA Has Assigned Six States NEPA Authority, and Additional States Are Interested

FHWA has assigned its NEPA authority to six states, enabling those state DOTs to assume FHWA's authority and approve state-prepared NEPA documentation for highway projects, in lieu of seeking federal approval.[43] California's NEPA authority began in 2007, as the first state in the then-pilot program, and continued when the program was made permanent in 2012. Once eligibility expanded to all states, Texas became the second state to be assigned NEPA authority, in 2014, followed more recently by Ohio in 2015, Florida in 2016, and Utah and Alaska in 2017.[44]

The 2005 Conference Report accompanying SAFETEA-LU indicates that the *NEPA Assignment Authority* provision was created to achieve more efficient and timely environmental reviews, which are a key benefit sought by participating states. The report states that the NEPA assignment program was initially created as a pilot program to provide information to Congress and the public as to whether delegation of DOT's environmental review responsibilities resulted in more efficient

[43]The *NEPA Assignment Authority* provision authorizes FHWA to do this. As discussed above, another provision—the *Categorical Exclusion Determination Authority* provision—authorized FHWA to assign and a state to assume responsibility for determining if projects can be categorically excluded from NEPA review. Three states currently have assumed this authority—Alaska, California, and Utah. According to FTA officials, no state has assumed FTA's NEPA authority for document approval on transit projects.

[44]We did not include Alaska in our review because it did not assume NEPA authority until November 2017.

environmental reviews.[45] In addition, in MAP-21, Congress declared that it is in the national interest to expedite the delivery of surface transportation projects by substantially reducing the average length of the environmental review process.[46] State DOT officials from the five NEPA assignment states we reviewed cited anticipated time savings or greater efficiency in environmental review as a reason for taking on this authority. For example, Texas DOT officials said they expected to save time by eliminating FHWA approval processes that they described as time consuming. With NEPA authority, the state puts in place its own approval processes to carry out the federal government's NEPA review responsibilities, and agrees to take on the risk of legal liability for decisions made in this capacity.

Additional states have expressed interest and have taken steps to apply for NEPA authority. Officials from three state DOTs told us they plan to apply for NEPA authority, and one of these, the Arizona DOT, has taken the first step in the process and obtained the requisite changes in state law.[47] In explaining the anticipated benefits of NEPA assignment to the state legislature, an Arizona DOT official cited time savings reported by California and Texas as a reason for taking on the application process. Time savings' results had been shared by California and Texas DOT officials during a peer exchange event held by an association of state highway officials in 2015 for states that are in the early stages or are considering applying for NEPA authority. Also, the Texas DOT had testified before a congressional committee in 2015 and described the time savings for environmental assessment reviews under its NEPA authority and its role communicating this information to other states pursuing NEPA authority.[48]

[45]H.R. Rep. No. 109-203, at 1053 (2005).

[46]Pub. L. No 114-121, § 1301(c), 126 Stat. 405, 528, codified at 23 U.S.C. § 101(b)(4).

[47]The Nebraska and Puerto Rico DOTs are also considering applying, according to officials in those states. States must, among other things, authorize a limited waiver of their sovereign immunity under the 11th amendment of the U.S. Constitution and consent to accepting the jurisdiction of the federal courts as a condition of assuming NEPA authority.

[48]The Texas DOT testified before the House Oversight Committee on MAP-21 (Dec. 8, 2015).

State DOTs Calculate Time Savings, but Reported Savings Are Questionable

The MOUs, signed with FHWA by each of the five states we reviewed, set out performance measures for comparing the time of completion for NEPA approvals before and after the assumption of NEPA responsibilities by the states. To calculate time savings, each state has established a baseline—of the time it took to complete NEPA review before it assumed NEPA authority—to compare to the time it takes to complete NEPA review after assuming NEPA authority. The baseline is to serve as a key reference point in determining the efficiency of state-led NEPA reviews. Thus far, the two states that have had NEPA authority long enough to report results are California and Texas, and only California has reported results for EISs. The California DOT reported that its EIS reviews now take about 6 years to approve, which it determined to be a 10-year improvement over the 16-year (15.9 years) baseline the state DOT established. For environmental assessment reviews, the California DOT reported completion times of about 3.5 years, which it determined to be a 1-year improvement over the established baseline. The Texas DOT has not started and completed an EIS review since assuming NEPA authority but reported that its environmental assessment reviews have taken about 1.5 years, compared to the baseline of almost 2.5 years.

However, we found California and Texas DOTs' reported time savings to be questionable due to the methods used to compare time frames and challenges associated with establishing baselines. First, there is an inherent weakness in comparing the NEPA review time frames before and after NEPA authority because the comparison does not isolate the effect of assuming NEPA authority on NEPA review time frames from other possible factors. As discussed earlier, we have previously found that such factors include the extent of public opposition to a project and changes in transportation priorities, among other factors.[49] Further, according to a report from the American Association of State Highway and Transportation Officials, such a comparison does not include information to control for non-environmental factors that are important to project delivery time frames, including delay in completion of design work necessary to advance the environmental review and changes in project funding that put a project on hold.[50] Moreover, neither California nor Texas DOTs' time frame comparisons isolate the effects of NEPA

[49]GAO-12-593.

[50]American Association of State Highway and Transportation Officials, *Lessons Learned from State DOT NEPA Assignment* (May 2016).

assignment from other streamlining initiatives that may have helped accelerate delivery of projects, such as potential benefits realized from other project delivery provisions.

Second, California and Texas have faced challenges creating appropriate baselines. States are responsible for determining how many and which projects to include in baseline calculations and adopting their own methodologies. While circumstances and conditions are different across states and states can be expected to have different experiences, California's current 16-year EIS baseline is over double that of Texas' EIS baseline.[51] In 2012, we found that for the 32 projects in which FHWA was the lead agency and signed the EIS in fiscal year 2009, the average time to complete the process was about 7 years.[52] According to information contained in California DOT reports to the state legislature from 2007 and 2009, California's original baseline for EISs was comprised of 1 project that resulted in an EIS baseline of 2.5 years.[53] In 2009 state DOT officials increased the number of EIS projects in order to achieve what they viewed as a more representative mix. This process increased California's EIS baseline six-fold, which has been consistently used since that time. Specifically, California used the median of five projects that had review times of around 2.5 years, 6.2 years, 15.9 years, 16.6 years, and 17.3 years. These projects were selected because they were among the final EIS projects that were reviewed prior to California's assuming NEPA authority.

However, the EIS baseline may not be meaningful. First, it includes outlier projects, which are projects that take much longer than usual to complete. According to California DOT officials, this factor is a limitation to determining time savings because the outliers increased the EIS baseline and therefore makes subsequent time savings look greater than they are. Next, despite the increase in EIS projects included in the baseline, a 2016 California DOT report to the state legislature stated that this new EIS baseline may still not be meaningful because of the relatively small sample size, and therefore the inferences that can be made from EIS

[51]The other NEPA assignment states have not publicly reported EIS baselines.

[52]GAO-12-593.

[53]California Department of Transportation, *Report to the California Legislature Pursuant to Section 820.1 of the California Streets and Highways Code* (November 2007); and California Department of Transportation, *Second Report to the California Legislature Pursuant to Section 820.1 of the California Streets and Highways Code* (Jan. 1, 2009).

analysis on time savings are limited.[54] The report caveats that "*the EIS analysis should not be used as a major indicator of the effectiveness of NEPA assignment,*" but still reports the EIS analysis results. However, California DOT uses the figure in determining and reporting time savings. For example, information available on the California DOT's web site as of November 2017 presents these data and states that they are evidence of saving "*significant time in reviewing and approving its NEPA documents since undertaking NEPA assignment.*"[55]

Moreover, the California DOT's reported median time frame of 6 years for EIS reviews only accounts for those projects that have both started and completed their environmental review since the state assumed NEPA authority. As only 10 years have passed since California assumed NEPA authority in 2007, all EIS reviews started and completed since 2007 automatically have shorter time frames than the 16-year baseline. Thus, it will be 2023 before any EIS reviews in California could equal the baseline, let alone exceed it, making any EIS review started after assumption of NEPA authority and completed before 2023 appear to demonstrate time savings.

Texas DOT officials stated that they had challenges determining a baseline for environmental assessments because there is no nationally accepted standard definition of when an environmental assessment begins. Moreover, Texas DOT recently revised its environmental assessment baseline, reducing it from 3 years to 2.5 years and including projects over a 2-year period instead of a longer 3-year period due to uncertainties with quality of the older data, according to Texas DOT officials. Texas also included, then excluded three outliers from its revised baseline (reviews that took between 6 and 9 years to complete) because officials determined they were not representative of typical environmental assessment reviews. While improving project data to create more accurate baselines is beneficial, it also results in different time savings' estimates over time and illustrates the challenges of constructing sound baselines.

[54]California Department of Transportation, *2016 Report to the Legislature, NEPA Assignment: July 2007-June 2014* (Jan. 1, 2016).

[55]California Department of Transportation, *Caltrans NEPA Assignment Fact Sheet* (October 2017).

As previously discussed, states that are considering or have recently decided to assume NEPA assignment authority have relied, at least in part, on time savings reported by California and Texas. As additional NEPA assignment states begin calculating and reporting time savings as outlined in their MOUs with FHWA, the inherent weakness of a pre- and post-assignment baseline comparison, combined with challenges establishing sound baselines, creates the potential for questionable information about the program's effects to be reported and relied upon by other states considering applying for NEPA assignment. Questionable information also negatively affects DOT's and Congress' ability to determine whether NEPA assignment is having its intended effect and resulting in more efficient environmental reviews.

FHWA Has Focused on States' Compliance and Processes but Has Played a Limited Role in Time Savings Measures

FHWA focuses its oversight of NEPA assignment states through audits and monitoring to ensure that states have the processes in place to carry out FHWA's role in the NEPA process and that they comply with the MOU agreed to between FHWA and each of the NEPA assignment states. According to the MOUs, FHWA's annual audits include evaluating the attainment of performance measures contained in each MOU. Each of the five MOUs contains four performance measures including: (1) documenting compliance with NEPA and other federal laws and regulations, (2) maintaining internal quality control and assurance measures for NEPA decisions including legal reviews, (3) fostering communication with other agencies and the general public, and (4) documenting efficiency and timeliness in the NEPA process by comparing the completion of NEPA documents and approvals before and after NEPA assignment.

According to FHWA officials, the agency interprets evaluating the attainment of performance measures contained in the MOU as ensuring that the state has a process in place to assess attainment. For the efficiency and timeliness measures, FHWA does not use its audits to measure whether the state is achieving performance goals. FHWA only ensures that the state has a process in place to track the completion of NEPA documents and approvals before and after NEPA assignment, and that states follow the process, according to FHWA officials. For example, FHWA officials from the California division office stated that they did not assess the baseline methodology or assess its validity or accuracy. FHWA's Texas division officials added that setting the baseline has not been an FHWA role. FHWA does not assess or collect information on states' calculations of their time savings from NEPA assignment.

FHWA officials stated that their focused approach on compliance and processes is consistent with the authority they have been granted and that it is not required by statute to measure environmental review efficiency and timeliness performance of participating states. Moreover, according to these officials, this authority limits their ability to request state information on issues related to, and otherwise assess, states' performance measures, including time savings, specifically:

- According to an FHWA program document, FHWA is statutorily authorized to require the state to provide any information that FHWA reasonably considers necessary to ensure that the state is adequately carrying out the responsibilities assigned to the state.[56] Further, a request for information is reasonable if it pertains to FHWA's reviewing the performance of the state in assuming NEPA assignment responsibilities. However, FHWA officials told us they do not consider an assessment of efficiency and timeliness measures to be necessary to ensure that the state is adequately carrying out its responsibilities.
- Additionally, FHWA considers timeliness performance measures to be a state role. FHWA officials told us that the timeliness performance measures in the NEPA assignment MOUs were added by the states, not FHWA. For instance, California added a timeliness performance measure based on its state legislature's reporting requirements. Each of the subsequent four NEPA assignment states we reviewed also included timeliness performance measures in their respective MOUs. However, the DOT Office of Inspector General reported in 2017 that while FHWA is not statutorily required to measure performance regarding the environmental review process for NEPA assignment states, the lack of data collection and tracking inhibits FHWA's ability to measure the effectiveness of NEPA assignment in accelerating project delivery.[57] The DOT Office of Inspector General recommended that FHWA develop and implement an oversight mechanism to periodically evaluate the performance of NEPA assignment states, which has not yet been implemented.

While FHWA does not, according to officials, have the authority to assess states' measurement of timeliness performance, FHWA has a role and the authority to provide guidance or technical assistance to states to help find solutions to particular problems and to ensure complete and quality

[56] 23 U.S.C. § 327(c)(4).

[57] DOT Office of Inspector General, *Vulnerabilities Exist in Implementing Initiatives Under MAP-21 Subtitle C to Accelerate Project Delivery* (ST2017029) (Mar. 6, 2017).

information is provided to Congress, state DOTs, and the public to help make informed policy choices. Federal standards for internal control state that agencies should use quality information to determine the extent to which they are achieving their intended program outcomes.[58] Characteristics of quality information include complete, appropriate, and accurate information that helps management make informed decisions and evaluate the entity's performance in achieving strategic outcomes. FHWA's mission to advance the federal-aid highway program is articulated in its national leadership strategic goal, which states that FHWA "leads in developing and advocating solutions to national transportation needs." To carry out its mission, FHWA engages in a range of activities to assist state DOTs in guiding projects through construction to improve the highway system. Specifically, according to agency documents, FHWA provides technical assistance and training to state DOTs and works with states to identify issues and develop and advocate solutions. Its broad authority to offer guidance and technical assistance can include helping states develop sound program methodologies. Such assistance or guidance could also include sharing best practices and lessons learned on evaluation methodologies, including creation of baselines, and potentially result in better quality information to assess the results of NEPA assignment. Without quality information reported from NEPA assignment states on time savings, questionable information about the program effects may be relied upon by other states considering applying for NEPA authority, and may negatively impact DOT's and Congress' ability to determine whether NEPA assignment is having its intended effect and resulting in more efficient environmental reviews.

FHWA officials stated that they advise NEPA assignment states on process improvements and technical assistance, but that no state has requested assistance developing evaluation methodologies or baselines. However, offering guidance or technical assistance on evaluation methodologies to measure time savings can help ensure that states are basing decisions to participate on reliable information and that, in turn, those NEPA assignment states can provide reliable information to FHWA and Congress to help assess whether NEPA assignment results in more efficient environmental reviews.

[58]GAO-14-704G.

Conclusions

A number of factors can affect the time it takes to complete highway and transit projects, including the NEPA review process. Congress has stated that it is in the national interest to expedite the delivery of surface transportation projects by substantially reducing the average length of the environmental review process, and has taken a number of steps in this direction, including allowing DOT to assign NEPA authority to the states. We found that the time savings results publicly shared by current NEPA assignment states have spurred interest among other states seeking NEPA authority. However, states are making program decisions—taking on risk and assuming federal authority—based on questionable information and reports of success.

Given questions about participating states' reported time savings, FHWA can help provide some assurance that the performance measures states develop and use to report out are based on sound methodologies. FHWA has the authority to issue program guidance and offer and provide technical assistance to help state DOTs find solutions to particular problems, including the development of sound evaluation methodologies. Without such assistance, states may continue to face difficulties establishing sound baselines. And without a sound baseline, the time savings states calculate—which may continue to be subsequently publicly reported—may be of questionable accuracy and value. And Congress, in turn, would not have reliable information on whether the assignment of NEPA authority to states is having its intended effect.

Recommendation for Executive Action

The FHWA Administrator should offer and provide guidance or technical assistance to NEPA assignment states on developing evaluation methodologies, including baseline time frames and timeliness measures. (Recommendation 1)

Agency Comments and Our Evaluation

We provided a draft of this report to DOT for review and comment. DOT provided a written response (see app. VI), as well as technical comments, which we incorporated as appropriate. DOT partially concurred with our recommendation. Specifically, DOT stated that it would clarify environmental review start times and communicate this to all FHWA divisions and states. DOT also stated it would provide the NEPA assignment states with any new federal government-wide guidance developed on performance measures of environmental reviews. DOT also stated that it already provides technical assistance to NEPA assignment states in other areas and that FHWA is not required by statute to measure the environmental review efficiency and timeliness of NEPA assignment states. Further, DOT stated that focusing only on timeliness metrics for environmental reviews overlooks other significant benefits of NEPA assignment, such as state control over when and how to conduct environmental reviews, which according to DOT is one of the most significant factors that a state considers in deciding whether to request NEPA assignment authority.

We are encouraged that DOT stated it would clarify environmental review start times. This step can improve the accuracy of environmental assessment review time frames, which is a part of developing sound baselines. In addition, while providing general guidance related to performance measures of environmental reviews would be helpful, we continue to believe that FHWA needs to provide further guidance or technical assistance to NEPA assignment states on developing sound evaluation methodologies. We recognize that FHWA has stated that it is not required by statute to measure environmental review efficiency; however, FHWA does have broad authority to offer guidance and technical assistance to help states develop sound program methodologies, including sharing practices and lessons learned on evaluation methodologies. As we reported, Congress indicated its interest in more efficient and timely environmental reviews when it created the NEPA assignment program. FHWA can help provide reasonable assurance that the performance measures states develop and use to report information are based on sound methodologies, which would in turn help provide Congress reliable information on whether the assignment of NEPA authority to states is having its intended effect. Further, while we acknowledge that other benefits of NEPA assignment may be important to states, all the NEPA assignment states we reviewed consistently identified time savings as a reason for taking on this authority. Offering guidance on evaluation methodologies to measure time savings can help FHWA ensure that additional states interested in NEPA authority for this reason are basing decisions to participate on reliable information.

We are sending copies of this report to interested congressional committees, the Secretary of the Department of Transportation, and other interested parties. In addition, this report will be available at no charge on GAO's website at http://www.gao.gov.

If you or your staff have any questions about this report, please contact me at (202) 512-2834 or flemings@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix VII.

Susan Fleming
Director, Physical Infrastructure Issues

Appendix I: Available Information about the Number, Percentage, and Costs of NEPA Reviews for Highway and Transit Projects

Based on 2009 data, we previously reported that 96 percent of environmental reviews are completed through categorical exclusions and a smaller number of highway projects undergo EISs and environmental assessments, 1 and 3 percent respectively.[1] We have previously reported that government-wide data on the cost of NEPA reviews are not readily available because agencies do not routinely track the cost of completing NEPA reviews and there is no government-wide mechanism to do so.[2] To comply with congressional reporting requirements, FHWA maintains the Project and Program Action Information (PAPAI) system, which is a monitoring database that tracks projects' NEPA review progress at major milestones. FHWA developed PAPAI in 2013 in response to statutory reporting requirements on NEPA time frames. PAPAI tracks EIS and environmental assessment start and end dates, among other information, allowing FHWA to track the processing time for these reviews. FTA does not have a similar monitoring system that tracks NEPA reviews, but has developed a new grant management system, the Transit Award Management System (TrAMS), which FTA also uses to track EIS and environmental assessment start and end dates. However, FTA officials told us that TrAMS is still in the early phases of deployment and may contain incomplete information on NEPA time frames on transit projects.

Highway Projects

While some information is available on the number of NEPA reviews (i.e., NEPA review time frames) for highway projects, little to no information is known about the percentage breakdown of the three types of NEPA reviews that have been conducted for these projects and their associated costs.

- *Number of NEPA Reviews:* Some information is available regarding the number of EIS and environmental assessments; however, less is known about the number of categorical exclusions. In an October 2017 report to Congress, FHWA stated that 29 EISs were initiated since 2012, of which 3 EISs were completed and 26 EISs remain active.[3] In its October 2013 report to Congress and consistent with

[1]GAO, *Highway Projects: Some Federal and State Projects to Expedite Completion Show Progress*, GAO-12-593 (Washington, D.C.: June 6, 2012).

[2]GAO, *National Environmental Policy Act: Little Information Exists on NEPA Analyses*, GAO-14-369 (Washington, D.C.: April 15, 2014).

[3]FHWA, *Report to Congress: Review of Federal Project and Program Delivery Completion Time Assessments* (Washington, D.C.: October 2017).

MAP-21 reporting requirements, FHWA reported the number of EISs that state DOTs "initiated" from 2002 through 2012. In this report, FHWA stated that the number of EISs that initiated decreased over time.[4] For example, FHWA reported that 38 EISs were initiated in fiscal year 2002 compared to 15 EISs that were initiated in 2012.[5]

Regarding the number of environmental assessments state DOTs conduct for highway projects, FHWA's October 2017 report to Congress stated 232 environmental assessments were initiated since 2012, of which 103 environmental assessments were completed and 129 environmental assessments remain active. FHWA's October 2013 report to Congress did not report on the number of environmental assessments. FHWA officials told us that prior to fiscal year 2013, FHWA division offices were not required to submit data on environmental assessments.

While some information on categorical exclusions exists, the total number of categorical exclusions is unknown. FHWA does not actively track categorical exclusions because state DOTs process most categorical exclusions without involvement from FHWA, as allowed by established programmatic agreements.[6]

- *Percentage of NEPA Reviews by Type:* The percentage breakdown of EIS, environmental assessments, and categorical exclusions conducted by state DOTs for federal-aid highway projects is largely unknown since FHWA has systematically collected numerical data only on EIS reviews and environmental assessments since fiscal year 2013. We previously reported that, FHWA estimated that approximately 96 percent of NEPA reviews were categorical exclusions, 3 percent were environmental assessments, and 1 percent were EISs.[7] While the current percentage breakdown of NEPA reviews is not known, FHWA officials told us that categorical exclusions still constitute the vast majority of NEPA reviews for highway projects. Furthermore, highway projects requiring an EIS

[4]FHWA, *Report to Congress: MAP-21 Review of Federal Project and Program Delivery Completion Time Assessments* (Washington, D.C.: Oct. 1, 2013).

[5]MAP-21 required FHWA to report on the number of EIS reviews that were "initiated "each year.

[6]In an October 2017 report to Congress, FHWA collected states' data and sampled more than 8,000 categorical exclusions, of which approximately 5,700 were initiated since 2012.

[7]GAO-12-593.

likely remain the smallest portion of all projects and are likely to be high-profile, complex, and expensive.

- *Costs of NEPA Reviews:* The costs of completing NEPA reviews are unknown according to officials we interviewed. Officials from FHWA and the National Association of Environmental Professionals believe that data on the cost of processing NEPA reviews do not exist and are not tracked. In our survey of state DOTs, we found that a majority (37 of the 52 state DOTs surveyed) do not collect cost data. For example, officials from Virginia DOT stated that they do not track NEPA costs and that compiling this information would be difficult and labor-intensive.

Transit Projects

- *Number and Percentage of NEPA Reviews:* FTA has some data on the number of categorical exclusions that transit agencies process, but has just begun to collect data on the number of EIS reviews or environmental assessments. According to an August 2016 report, FTA reported that 24,426 categorical exclusions were processed for 6,804 projects between February 2013 and September 2015.[8] However, the same report cited a number of limitations and challenges with the underlying data, and as a result, the data may not be accurate. FTA officials told us that its new internal grant management system, TrAMS, also has the capability to track EIS reviews and environment assessments, but they are in the early stages of collecting this information. Given that data on the number of NEPA reviews are either not available (EIS and environmental assessments) or potentially unreliable (categorical exclusions), data on the percentage of NEPA reviews are also not available. However, FTA officials believe that similar to highway projects, the most common type of NEPA reviews that transit agencies process are categorical exclusions.
- *Costs of NEPA Reviews:* FTA and transit agencies do not track costs of processing NEPA reviews for transit projects. According to FTA and our previously issued work, separating out the costs for NEPA reviews (versus "planning" costs or "preliminary design" costs) within the project delivery process would be difficult to determine.[9]

[8]Volpe National Transportation Systems Center, *Federal Transit Administration Categorical Exclusion Audit Synthesis Report.* (Cambridge, MA: August 2016).

[9]GAO-14-369.

Appendix II: Objectives, Scope, and Methodology

Our work focused on federal-aid highway and transit projects and the provisions included in the past three surface transportation reauthorizations that are intended to accelerate the delivery of such projects (i.e., project delivery provisions). In particular, this report: (1) identifies the provisions aimed at accelerating the delivery of highway and transit projects that were included in the last three surface transportation reauthorizations; (2) examines the extent to which the provisions were used by state departments of transportation (state DOT) and transit agencies and the provisions' reported effects, if any, on accelerating the delivery of projects; and (3) evaluates the extent to which DOT has assigned National Environmental Policy Act of 1969 (NEPA) authority to states and the reported effects. In addition, in appendix I, we identify available information on the number and percentage of the different types of NEPA reviews, and costs of conducting NEPA reviews.

To identify all relevant project delivery provisions, we reviewed language in the three most recent surface transportation reauthorizations and included those provisions with the goal to accelerate the delivery of federal-aid highway or transit projects. The three reauthorizations we reviewed are as follows:

- the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)—the seven project delivery provisions we used were derived from provisions we had previously identified from SAFETEA-LU, Title VI, on Transportation Planning and Project Delivery;[1]
- the Moving Ahead for Progress in the 21st Century Act (MAP-21), Division A, Title 1, Subtitle C, entitled Acceleration of Project Delivery (Sections 1301 through 1323); and
- the Fixing America's Surface Transportation Act (FAST Act), Division A, Title 1, Subtitle C, entitled Acceleration of Project Delivery (Sections 1301 through 1318).

One provision (MAP-21 §1318(a)-(c)) included statutory language directing the Department of Transportation (DOT) to develop additional project delivery provisions through rulemaking. Accordingly, we reviewed the DOT regulations promulgated in response to that requirement (23 C.F.R. §§ 771.117(c)(24)-(30), 771.118(c)(14)-(16), 771.118(d)(7)-(8) and identified 12 additional project delivery provisions. We combined

[1]GAO-12-593.

provisions that were modified in later statutory language and did not specify between different versions of the provisions, as this precision was not necessary for our purposes. For example, the *150-Day Statute of Limitations* provision was created in SAFETEA-LU (section 6002) as a 180-day statute of limitations and amended in MAP-21 (section 1308) to 150 days, which is the version we used. We also grouped the provisions into categories for ease of understanding; determined if provisions were applicable to highway projects or transit projects, or both; and specified if provisions were required or optional, based on professional judgement and legal review. We define "required" provisions to mean that federal agencies or state or local transportation agencies that are subject to a provision must adhere to the requirements and obligations in the provision, if all the conditions for its use have been satisfied. We define "optional" provisions to mean that the relevant entity (a federal agency or state or local transportation agency) can choose to use the provision if circumstances allow.

We met with officials from the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) to confirm that we had a complete list of project delivery provisions for highway and transit projects.

To determine states' awareness, use, and perceived effects of the project delivery provisions on highway projects over the previous 5 years, we surveyed state DOTs within all 50 states, the District of Columbia, and Puerto Rico. We directed the survey to officials in state DOTs that oversee environmental compliance for highway projects under NEPA. Because these officials do not have responsibilities with respect to three *Advance Planning* category's provisions that allow certain activities to occur prior to the completion of a NEPA review, we excluded these project delivery provisions from the survey.[2] We also excluded two provisions from the survey that are related to DOT assignment of federal NEPA authority, because their use requires a written agreement between FHWA and state DOTs, and we addressed those provisions separately through interviews with states that have such written agreements in place.[3] Our survey response rate was 100 percent. In order to ensure that

[2]The three *Advance Planning* category's provisions are the: *Design-Build Contracting* provision, *Advance Acquisition of Real Property* provision, and *2-phase Contracts* provision.

[3]The two *NEPA Assignment* category's provisions are the *NEPA Assignment Authority* provision and the *Categorical Exclusion Determination Authority* provision.

respondents would interpret our questions as intended, prior to administering the survey, we conducted pretests with state DOTs in four states: Georgia, Ohio, Texas, and Washington. In each pretest, we conducted a session with state DOT officials during which the officials completed the survey and then provided feedback on the clarity of the questions. Based on the feedback, we refined some questions and restructured parts of the survey. After the four pretests were completed, we provided a draft copy of the survey to FHWA and the American Association of State Highway and Transportation Officials (AASHTO) for their review and comment. Both provided technical comments that we incorporated, as appropriate. Based on early interviews with highway project stakeholders and our pretests, we determined that the survey should be sent to environmental officials at the state DOTs. Additional information about our survey methodology includes the following:

- To determine whom we should send the pretest and survey to (i.e., the survey respondent), we used a list of environmental officials at the state DOTs compiled by AASHTO. We took steps, such as sending early notification e-mails, to help ensure that the list of respondents we created was accurate.
- We launched our survey on March 7, 2017. We sent e-mail reminders and telephoned survey respondents who had not completed the survey after two weeks, urging them to do so as soon as possible. We reviewed survey responses for omissions and analyzed the information provided. The survey and aggregated responses—with the exception of open-ended responses and information that would identify individual state DOTs—are provided in appendix IV.
- For each of the provisions included on the survey, we included references to legal citations in order to minimize confusion among provisions or versions of provisions.
- We provided space in the survey for respondents to provide optional comments for each individual provision and for each category of provisions. We analyzed these comments primarily for additional context and as a source of illustrative examples.
- Because all state DOTs were included in our survey, our analyses are not subject to sampling errors. However the practical difficulties of conducting any survey may introduce non-sampling errors. For example, differences in how a particular question is interpreted or the sources of information available to respondents can introduce errors into the survey results. We included steps both in the data collection and data analysis stages, including pretesting, to minimize such non-

sampling errors. We also sent a draft of the questionnaire to FHWA and AASHTO for review and comment.

- We examined the survey results, reviewed survey responses during follow-up interviews with selected states, and performed computer analyses to identify inconsistencies and other indications of error and addressed such issues, where necessary. A second, independent analyst checked the accuracy of all computer analyses to minimize the likelihood of errors in data processing.

Based on the survey results, we conducted follow-up interviews with officials from 10 state DOTs to discuss their views about the effects the project delivery provisions had on the duration of highway projects in their states in the past 5 years. We did not independently verify state DOT officials' estimates of time savings. We selected state DOTs that reported a range of use and effects of the provisions; we also selected geographically diverse states. The 10 states we selected were Arizona, California, Colorado, Illinois, Maine, Minnesota, Mississippi, Texas, Virginia, and Wyoming. We also asked these state DOTs about their use and experiences with the three *Advance Planning* category's provisions we excluded from the survey. These interviews are not generalizable to all states but provide additional context for responses.

To determine transit agencies' awareness, use, and views about the effects of the project delivery provisions applicable to transit, we selected a non-generalizable sample of 11 transit agencies, provided a "checklist" of the provisions to the officials regarding their awareness and use of the provisions, and interviewed officials at those agencies that oversee NEPA reviews for transit projects. We selected these agencies based primarily on the number of times they issued a notice of intent to prepare an EIS in the *Federal Register* from 2005 through 2016 to identify those transit agencies that may have experience preparing EISs or some another NEPA review and experience using transit project delivery provisions. While notices of intent to prepare an EIS do not always result in a transit agency's conducting an actual EIS review, they indicate instances in which a transit agency plans to conduct an EIS review. Other factors, such as ridership and geographic location, were also considered to select the 11 transit agencies. We identified contacts for the transit agencies by calling the transit agencies' Planning and Environmental Review departments and identifying individuals that had experience with environmental reviews and project delivery provisions. We interviewed officials at the following transit agencies:

- Capital Metro (Austin, Texas),

- Chicago Transit Authority,
- Houston Metropolitan Transit Authority,
- Los Angeles County Metropolitan Transportation Authority,
- Metropolitan Atlanta Rapid Transit Authority,
- Sacramento Regional Transit District,
- San Francisco Bay Area Water Emergency Transportation Authority,
- San Francisco Municipal Transportation Agency,
- Sound Transit (Seattle, Washington),
- Southeastern Pennsylvania Transportation Authority, and
- Tri-County Metropolitan Transportation District of Oregon.

Similar to the survey we provided to state DOTs regarding highway projects, we provided the transit agencies with a "checklist" of the provisions in which the transit agency officials indicated whether they had heard of and used the provisions. To understand why the provisions may not be used by selected transit agencies, we also examined the frequency in which transit agencies filed a notice of intent to prepare an EIS in the *Federal Register*. After discussions with FTA, we used the number of times transit agencies filed a notice of intent to prepare an EIS as a proxy because agencies that have performed multiple EISs, which are typically complex in nature, are more likely to use the provisions and be able to offer insight. Transit agencies may also have experience using provisions related to categorical exclusions since transit agencies process their NEPA reviews more commonly using categorical exclusions. However, we did not examine the extent to which categorical exclusions are used by transit agencies as a proxy to identify agencies that have experience using the provisions in part because FTA's current database, TrAMS, does not have comprehensive data on categorical exclusions. We discussed transit agency officials' views about the effects of the provisions during our interviews. These interviews are not generalizable to all transit agencies but provide anecdotal information and context.

To evaluate the extent that DOT has assigned NEPA authority to states and the effects states have reported from assuming NEPA authority, we identified states that have assumed NEPA authority based on information from FHWA: Alaska, California, Florida, Ohio, Texas, and Utah. We did not include Alaska in our review because that state did not assume NEPA authority until November 2017. For the five states we reviewed, we interviewed state DOT officials and reviewed relevant documentation including memorandums of understanding and analyses the state DOTs conducted on NEPA assignment authority, such as methodologies for calculating NEPA assignment time savings. We also surveyed the state DOTs that have not yet sought NEPA authority to assess their interest in assuming NEPA authority. In addition, we interviewed FHWA officials about procedures to oversee the performance of NEPA assignment states and interviewed FHWA division officials from those states. We compared FHWA's procedures to oversee NEPA assignment states against standards for information and communication contained in *Standards for Internal Control in the Federal Government.*[4]

To determine available information on the number and percentage of the different NEPA reviews and costs of conducting NEPA reviews for highway and transit projects, we reviewed relevant publications, obtained documents and analyses from federal agencies, and interviewed federal officials and individuals from professional associations with expertise in conducting NEPA analyses. We also included a question on costs of conducting NEPA reviews in the survey we administered to state DOTs.

For all objectives, we interviewed agency officials and stakeholders involved in highway and transit projects from FHWA and FTA headquarters and transportation industry and environmental organizations that are familiar with project delivery and environmental review.

We conducted this performance audit from August 2016 to January 2018 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

[4]GAO-14-704G.

Appendix III: Project Delivery Provisions Included in the Three Most Recent Federal Transportation Reauthorization Acts That Apply to Highway and Transit Projects

Table 2: Project Delivery Provisions Included in Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), the Moving Ahead for Progress in the 21st Century Act (MAP-21), and the Fixing America's Surface Transportation Act (FAST Act) That Apply to Highway and Transit Projects

		Applies to:		Provision is[a]:		
GAO category for provision	**GAO term for provision**	**Highway**	**Transit**	**Required**	**(Highway) Optional**	**(Transit) Optional**
Accelerated National Environmental Policy Act (NEPA) Review	Categorical Exclusion for Multimodal Projects[b] Authorizes a Department of Transportation (DOT) operating administration to apply a categorical exclusion of another DOT operating administration to a multimodal project. MAP-21: § 1314, as amended by FAST Act: § 1310 (codified at 49 U.S.C. § 304)	X	X	-	X	X
	Categorical Exclusion in Emergencies Designates the repair reconstruction, restoration, retrofitting, or replacement of any road, highway, bridge, tunnel, or transit facility that was damaged by an emergency as a categorical exclusion. MAP-21: § 1315 (23 U.S.C. § 109 note) 23 C.F.R. § 771.117(c)(9) 23 C.F.R. § 771.118(c)(11)	X	X	-	X	X
	Categorical Exclusion for Projects within the Existing Operational Right-of-Way[c] Designates a project within an existing operational right-of-way as a categorical exclusion. MAP-21: § 1316 (23 U.S.C. § 109 note) 23 C.F.R. § 771.117(c)(18) 23 C.F.R. § 771.118(c)(12)	X	X	-	X	X
	Categorical Exclusion for Projects with Limited Federal Funds Authorizes the designation of a categorical exclusion for projects receiving less than $5 million in federal funds, or less than 15 percent federal funds for a project under $30 million, subject to an annual inflation adjustment. MAP-21: § 1317, as amended by FAST Act: § 1314 (23 U.S.C. § 109 note) 23 C.F.R. § 771.117(c)(23) 23 C.F.R. § 771.118(c)(13)	X	X	-	X	X
	Categorical Exclusion for Geotechnical and Archeological Investigations For highway projects, designates a categorical exclusion for geotechnical and archeological investigations to provide information for preliminary design. 23 C.F.R. § 771.117(c)(24)	X	-	-	X	-

GAO category for provision	GAO term for provision	Applies to: Highway	Applies to: Transit	Provision is[a]: Required	Provision is[a]: (Highway) Optional	Provision is[a]: (Transit) Optional
	Categorical Exclusion for Environmental Restoration For highway projects, designates environmental restoration and pollution abatement actions to minimize or mitigate the impact of any existing transportation facility. 23 C.F.R. § 771.117(c)(25)	X	-	-	X	-
	Eliminating the Documentation and Prior Approval Requirement for Categorical Exclusion for Highway Modernization For highway projects, designates resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes as a categorical exclusion that does not require documentation or prior FHWA approval. 23 C.F.R. § 771.117(c)(26)	X	-	-	X	-
	Eliminating the Documentation and Prior Approval Requirement for Categorical Exclusion for Highway Safety For highway projects, designates highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting, as a categorical exclusion that does not require documentation or prior FHWA approval. 23 C.F.R. § 771.117(c)(27)	X	-	-	X	-
	Eliminating the Documentation and Prior Approval Requirement for Categorical Exclusion for Bridge Projects at Railway-Highway Crossings For highway projects, designates bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade railroad crossings, as a categorical exclusion that does not require documentation or prior FHWA approval. 23 C.F.R. § 771.117(c)(28)	X	-	-	X	-
	Categorical Exclusion for FHWA-funded Ferry Vessels For FHWA-funded ferry projects, designates the purchase, construction, replacement, or rehabilitation of ferry vessels that would not require a change in the function of the ferry terminals as a categorical exclusion. 23 C.F.R. § 771.117(c)(29)	X	-	-	X	-
	Categorical Exclusion for FHWA-funded Ferry Facility Rehabilitation or Reconstruction For FHWA-funded ferry terminal projects, designates the rehabilitation or reconstruction of existing ferry facilities that do not substantially enlarge the footprint or capacity as a categorical exclusion. 23 C.F.R. § 771.117(c)(30)	X	-	-	X	-

GAO category for provision	GAO term for provision	Applies to: Highway	Transit	Provision is[a]: Required	(Highway) Optional	(Transit) Optional
	Categorical Exclusion for Bridge Removal Designates bridge removal and bridge removal related activities, such as in-channel work, disposal of materials and debris as a categorical exclusion. 23 C.F.R. § 771.118(c)(14)	-	X	-	-	X
	Categorical Exclusion for Preventative Maintenance to Culverts and Channels Designates preventative maintenance, including safety treatments, to culverts and channels within and adjacent to transportation right-of-way as a categorical exclusion. 23 C.F.R. § 771.118(c)(15)	-	X	-	-	X
	Categorical Exclusion for Geotechnical and Archeological Investigations For transit projects, designates geotechnical and archeological investigations to provide information for preliminary design, environmental analyses, and permitting purposes as a categorical exclusion. 23 C.F.R. § 771.118(c)(16)	-	X	-	-	X
	Categorical Exclusion for Minor Rail Realignment Designates minor transportation facility realignment for rail safety reasons, such as improving vertical and horizontal alignment of railroad crossings, as a categorical exclusion. 23 C.F.R. § 771.119(d)(7)	-	X	-	-	X
	Categorical Exclusion for Modernization of Transit Structures Designates modernization or minor expansions of transit structures and facilities outside existing right-of-way, such as ridges, stations, or rail yards, as a categorical exclusion. 23 C.F.R. § 711.118(d)(8)	-	X	-	-	X
	Minor Impacts to Protected Public Land Authorizes a historic site, park land, or refuge to be used for a transportation program or project if it is determined that "*de minimis*" impact would result. SAFETEA-LU: § 6009, as amended by FAST Act: §§ 1301-1303 (codified at 23 U.S.C. § 138(b))	X	X	-	X	X

GAO category for provision	GAO term for provision	Applies to: Highway	Applies to: Transit	Provision is[a]: Required	Provision is[a]: (Highway) Optional	Provision is[a]: (Transit) Optional
Administrative and Coordination Changes	150-Day Statute of Limitations[d] Bars claims seeking judicial review of a permit, license, or approval issued by a federal agency for highway projects unless they are filed within 150 days after publication of a notice in the *Federal Register* announcing the final agency action, or unless a shorter time is specified in the federal law under which the judicial review is allowed. SAFETEA-LU: § 6002, as amended by MAP-21: § 1308 (codified at 23 U.S.C. § 139(l))	X	X	X	-	-
	Planning Documents Used in NEPA Review Authorizes the lead agency for a project to use planning products, such as planning decisions, analysis, or studies, in the environmental review process of the project. MAP-21: § 1310, as amended by FAST Act: § 1305 (codified at 23 U.S.C. § 168(b)) 23 C.F.R. Part 450	X	X	-	X	X
	Programmatic Mitigation Plans Used in NEPA Review Requires that any federal agency responsible for environmental review give substantial weight to the recommendations in a state or metropolitan programmatic mitigation plan, if one had been developed as part of the transportation planning process, when carrying out responsibilities under NEPA or other environmental law. MAP-21: § 1311, as amended by FAST Act: § 1306 (codified at 23 U.S.C. § 169(f))	X	X	X[e]	-	-
	Combine Final Environmental Impact Statement (EIS) and Record of Decision in Certain Cases To the maximum extent practicable, the lead agency shall combine the final EIS and record of decision in certain cases. FAST Act: §§ 1311 &1304 (codified at 49 U.S.C. § 304a(a)-(b))	X	X	X[f]	-	-
	Environmental Documents for Use Among DOT Administrations on Similar Projects Authorizes the operating administrations of DOT to adopt a draft EIS, environmental assessment, or final EIS of another operating administration without recirculating the document for public review if the proposed action is substantially the same as the project considered in the document to be adopted. FAST Act: § 1311 (codified at 49 U.S.C. § 304a(c))	X	X	-	X	X

GAO category for provision	GAO term for provision	Applies to: Highway	Applies to: Transit	Provision is[a]: Required	Provision is[a]: (Highway) Optional	Provision is[a]: (Transit) Optional
	45-Day Limit to Identify Resource Agencies Establishes a 45-day limit after the notice of intent date for a lead agency to identify other agencies to participate in the environmental review process on EIS projects. FAST Act: § 1304(d)(1) (codified at 23 U.S.C. § 139(d)(2))	X	X	X	-	-
	Use Single NEPA Document Requires to the maximum extent practicable and consistent with federal law, for the EIS project lead agency to develop a single NEPA document to satisfy the requirements for federal approval or other federal action, including permits. FAST Act: § 1304(d)(2) (codified at 23 U.S.C. § 139(d)(8))	X	X	X	-	-
	Procedures for Initiation of Environmental Review Creates several requirements at the start of an EIS project's environmental review process, such as 1) establishing a 45-day deadline for DOT to provide a written response to the project sponsor on initiation of the environmental review process; 2) establishing a 45-day deadline for DOT to respond to a request for designation of a lead agency; and 3) requiring the development of a checklist by the lead agency, as appropriate, to help identify natural, cultural, and historic resources, to identify cooperating and participating agencies and improve interagency collaboration. FAST Act: §1304(e) (codified at 23 U.S.C. § 139(e))	X	X	X	-	-
	Reduce Duplication by Eliminating Detailed Consideration of Alternative Actions Authorizes the lead agency to reduce duplication, by eliminating from detailed consideration an alternative proposed in an EIS if the alternative was already proposed in a planning process or state environmental review process. FAST Act: § 1304(f)(2)(C) (codified at 23 U.S.C. § 139(f)(4)(E)(ii))	X	X	-	X	X

Appendix III: Project Delivery Provisions Included in the Three Most Recent Federal Transportation Reauthorization Acts That Apply to Highway and Transit Projects

		Applies to:		Provision is[a]:		
GAO category for provision	GAO term for provision	Highway	Transit	Required	(Highway) Optional	(Transit) Optional
	Use of Federal Highway or Transit Funds to Support Agencies Participating in the Environmental Review Process[g] Allows a public entity to use its federal highway or transit funds to support a federal or state agency or Indian tribe participating in the environmental review process on activities that directly contribute to expediting and improving project planning and delivery. SAFETEA-LU: § 6002(j), as amended by MAP-21: § 1307 and FAST Act: § 1304(i) (codified at 23 U.S.C. § 139(j))	X	X	-	X	X
	Issue Resolution Process Establishes procedures to resolve issues between state DOTs and relevant resource agencies. SAFETEA-LU: § 6002(a), as amended by MAP-21: § 1306 and FAST Act: § 1304(h) (codified at 23 U.S.C. § 139(h))	X	X	X	-	-
	Enhanced Technical Assistance & Accelerating Project Completion At the request of a project sponsor or a governor of the state in which the project is located, requires DOT to provide additional technical assistance for a project where EIS review has taken 2 years, and establish a schedule for review completion within 4 years. MAP-21: § 1309 (codified at 23 U.S.C. § 139(m))	X	X	X[h]	-	-
	Programmatic Agreements for Efficient Environmental Review[i] Requires DOT to seek opportunities with states to enter into programmatic agreements to carry out environmental and other project reviews. MAP-21: §§ 1305(a) and 1318(d) (23 U.S.C. § 139 note) FAST Act: § 1304(b)	X	X	X	-	-
	Early Coordination Activities in Environmental Review Process Encourages early cooperation between DOT and other agencies, including states or local planning agencies, in the environmental review process to avoid delay and duplication, and suggests early coordination activities. Early coordination includes establishment of MOUs with states or local planning agencies. MAP-21: § 1320 (23 U.S.C. § 139 note)	X	X	-	X	X

GAO category for provision	GAO term for provision	Applies to: Highway	Applies to: Transit	Provision is[a]: Required	Provision is[a]: (Highway) Optional	Provision is[a]: (Transit) Optional
	Stakeholder Agency Comments in Area of Expertise Limits the comments of participating agencies to subject matter areas within the special expertise or jurisdiction of the agency. FAST Act: § 1304(f)(2)(A) (codified at 23 U.S.C. § 139(f)(4)(A)(ii))	X	X	X	-	-
	Coordination Plan for Public and Agency Participation Requires a coordination plan for public and agency participation in the environmental review process within 90 days of notice of intent or the initiation of an Environmental Assessment, including a schedule for completion of the environmental review process for the project. SAFETEA-LU: § 6002 as amended by MAP-21: § 1305, and FAST Act: § 1304(g)(1) (codified at 23 U.S.C. § 139(g)(1)(A) and (B))	X	X	X	-	-
	Resolved Issues are Not Reconsidered Without Significant New Information Issues that are resolved by the lead agency with concurrence from stakeholder cannot be reconsidered unless there is significant new information or circumstances arise. FAST Act: § 1304(h)(1) (codified at 23 U.S.C. § 139(h)(4))	X	X	X	-	-
Advance Planning	Advance Design-Build Contracting Permits states or local transportation agencies to release requests for proposals and award design-build contracts prior to the completion of the NEPA process; however, it precludes a contractor from proceeding with final design or construction before completion of the NEPA process. SAFETEA-LU: § 1503(2) (codified at 23 U.S.C. § 112(b)(3))	X	-	-	X	-
	Advance Acquisition of Real Property Authorizes states to acquire real property interests for a project before completion of the NEPA process. MAP-21: § 1302 (codified at 23 U.S.C. § 108(c))	X	-	-	X	-
	2-phase Contracts Authorizes the awarding of 2-phase contracts (construction manager/ general contractor) with preconstruction services and preliminary design of a project using a competitive selection process before the completion of the NEPA process. MAP-21: § 1303(a) (codified at 23 U.S.C. § 112(b)(4))	X	-	-	X	-

		Applies to:		Provision is[a]:		
GAO category for provision	GAO term for provision	Highway	Transit	Required	(Highway) Optional	(Transit) Optional
NEPA Assignment	Categorical Exclusion Determination Authority Authorizes DOT to assign and a state to assume responsibility for determining if projects can be categorically excluded from NEPA review. SAFETEA-LU: § 6004(a), as amended by MAP-21: § 1312, and FAST Act: § 1307 (codified at 23 U.S.C. § 326)	X	X	-	X	X
	NEPA Assignment Authority Authorizes DOT to assign and a state to assume many federal environmental review responsibilities for highway, public transportation, and railroad projects, to be administered in accordance with a written agreement between DOT and the participating state. SAFETEA-LU: § 6005(a), as amended by MAP-21: § 1313, and FAST Act: § 1308 (codified at 23 U.S.C. § 327)	X	X	-	X	X
Total provisions	:	**34**	**29**	**12**	**22**	**17**

Source: GAO analysis of Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users; the Moving Ahead for Progress in the 21st Century Act; and the Fixing America's Surface Transportation Act. | GAO-18-222

[a]We define "required" provisions to mean that federal agencies, or state or local transportation agencies that are subject to a provision must adhere to the requirements and obligations in the provision, if all the conditions for its use have been satisfied. We define "optional" provisions to mean that the relevant entity (a federal agency or state or local transportation agency) can choose to use the provision if circumstances allow.

[b]"Categorical exclusion" means a category of actions that do not individually or cumulatively have a significant effect on the human environment, and for which, therefore, neither an environmental assessment nor an environmental impact statement is required.

[c]The existing operational right-of-way refers to a strip of land that has been disturbed for an existing transportation facility or is maintained for transportation purposes, such as a highway, public footpath, rail bed, landscaping, or rest areas with direct access to a controlled access highway.

[d]The provision bars judicial review of claims unless they are timely filed.

[e]Once states or metropolitan planning organizations decide to use such plans federal agencies must give substantial weight to the plans.

[f]There may be instances in which a combined document is not the best option.

[g]Funds may be provided for transportation-planning activities that precede the initiation of the environmental review process, for dedicated staffing, for training of agency personnel, for information gathering and mapping, and for development of programmatic agreements.

[h]Once a project sponsor or governor requests assistance, DOT is required to provide it.

[i]"Programmatic agreements" are agreements between state departments of transportation and their Federal Highway Administration division office on processes and procedures to carry out environmental reviews and other required project reviews.

Appendix IV: Highway Questionnaire and Summarized Responses

This appendix provides a copy of the survey sent to state departments of transportation in all 50 states, the District of Columbia, and Puerto Rico concerning their use of the project delivery provisions for highway projects. The appendix also includes the responses received for each of the provisions; it does not include information on non-responses, which resulted either from the survey's skip patterns or from state officials voluntarily declining to respond.

GAO also developed names for the provisions in the survey; we subsequently modified the names of several of the provisions for the text of our report to make them more intuitive for readers. The following list matches the provisions that have different names in our report than in the survey.

Report Name	Survey Name
• Categorical Exclusion for Projects within the Existing Operational Right-of-Way	• Categorical Exclusion for Projects Within the Right-of-Way
• Eliminating the Documentation and Prior Approval Requirement for Categorical Exclusion for Highway Modernization	• Categorical Exclusion for Highway Modernization
• Eliminating the Documentation and Prior Approval Requirement for Categorical Exclusion for Highway Safety	• Categorical Exclusion for Highway Safety and Operational Improvement
• Eliminating the Documentation and Prior Approval Requirement for Categorical Exclusion for Bridge Projects at Railway-Highway Crossings	• Categorical Exclusion for Bridge Projects at Railway-Highway Crossings
• Categorical Exclusion for FHWA-funded Ferry Vessels	• Categorical Exclusion for Ferry Vessels
• Categorical Exclusion for FHWA-funded Ferry Facility Rehabilitation or Reconstruction	• Categorical Exclusion for Ferry Facilities
• Planning Documents Used in National Environmental Protection Act (NEPA) Review	• Planning Products for Use in NEPA Review
• Reduce Duplication by Eliminating Detailed Consideration of Alternative Actions	• Reduce Duplicate Consideration of Alternatives
• Use of Federal Highway or Transit Funds to Support Agencies Participating in the Environmental Review Process	• Offering Financial Assistance to Stakeholder Agencies

Report Name	Survey Name
• Use Single NEPA Document	• Single NEPA Document
• Procedures for Initiation of Environmental Review	• Initiation of Environmental Review Process

GAO

United States Government Accountability Office

Highway Project Delivery Questionnaire

March 7, 2017

Introduction

The U.S. Government Accountability Office (GAO) is an independent, nonpartisan agency that assists Congress in evaluating federal programs. This questionnaire is part of a legislatively mandated GAO study regarding provisions that aim to accelerate project delivery and streamline the environmental review process required under the National Environmental Policy Act of 1969 (NEPA). These project delivery provisions were enacted in the past three surface transportation reauthorization acts—Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU; 2005), Moving Ahead for Progress in the 21st Century Act (MAP-21; 2012), and Fixing America's Surface Transportation Act (FAST Act; 2015).

The results of this questionnaire will help inform a written report to Congress. In our report we will generally use only the aggregated results of this questionnaire. GAO will not attribute specific responses of this questionnaire to any individual respondents or otherwise disclose them to the public. However, GAO will include a list of state highway agencies in an appendix of the report as having responded to the questionnaire.

Please answer this questionnaire from your perspective as environmental director (or designee) of your agency. If you are not able to answer all the questions in this questionnaire yourself, you may need to coordinate your responses with the appropriate people within your agency. Please complete and return this questionnaire by e-mail to LevyE@gao.gov within 2 weeks of receiving it. Each agency should only submit one questionnaire. In testing this survey, we found that it took approximately 30 minutes to complete. We may contact you to clarify responses as needed.

Thank you in advance for your time and consideration.

GAO Contacts

Ethan Levy at (202) 512-4807 (LevyE@gao.gov)
Brian Chung at (206) 287-4795 (ChungC@gao.gov)

Instructions

This questionnaire can be filled out using Microsoft Word. Please save this document to your computer before entering any information. Please use your mouse to navigate, clicking on the field or check box ☐ you wish to answer. To select a check box or a button, click on the center of the box. To change or deselect a check box response, click on the check box and the 'X' will disappear. For questions that require a written response, click the answer field with your mouse and enter text. The field will expand to accommodate your answer. When you have completed the questionnaire, please save it to your computer and email it as an attachment to LevyE@gao.gov.

Contact Information

Please provide contact information for the person primarily responsible for completing this question set so that we may contact you should any clarifications be needed. If multiple individuals are involved in answering these questions, please identify a single point of contact.

Your Name	
Title	
State Highway Agency	
Phone	
Email	

Part I.

In Part I of the questionnaire, please select 'Yes', 'No', or 'Not Applicable' for each question.

	Yes	No	Not Applicable
1. Does your state track the number of highway projects processed as categorical exclusions?	48	4	0
2. Does your state track the number of highway projects processed as environmental assessments?	46	6	0
3. Does your state track the number of highway projects processed as environmental impact statements?	44	7	1
4. Does your state track the timeframe for NEPA review of highway projects?	40	11	1
5. Does your state collect data on the costs associated with NEPA review for highway projects?	14	37	1

Do you have any comments or anything further to add on the tracking of NEPA review timeframes or costs?
(add pages if needed)

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Part IIA.

In Part IIA of the questionnaire, for each provision listed, GAO has paraphrased a provision title and description, and included citations for the statute(s) that created/amended it (in some cases, citations for regulations are included). We included Internet hyperlinks to U.S. Government Publishing Office websites, for reference to citations if needed. (You must be connected to the Internet to use this feature.) We then created our own categories to group the provisions. For each provision-

- Question 'A' asks for a 'Yes' or 'No' response. If your response is 'Yes', continue to question 'B'.
- Question 'B' asks for the response that best fits your agency's experience. If your response indicates any use (i.e. Frequently, Sometimes, Rarely), continue to question 'C'.
- Question 'C' asks for the response that best fits your agency's experience.
- At the end of each category of provisions, you will have an opportunity to expand upon any of your responses and provide any additional comments.

	A. Is your agency aware of this provision? (Mark only one box)	**B. If Yes to 'A,' how often in the past five years has your agency used this provision across all highway projects?** (Mark only one box)	**C. If any use marked in 'B,' in what way has this provision affected the speed of project delivery at your agency?** (Mark only one box)
Categorical Exclusions			
1. Categorical Exclusion for Multimodal Projects Authorizes the lead agency of a multimodal project to apply a categorical exclusion designation to the project. *MAP-21: Sec. 1314 [PDF p.547]* *FAST Act: Sec. 1310(3) [PDF p.1397]*	Yes: **48** ➡ No: **4** ⬇ *(Go to next provision)*	Frequently: **3** Sometimes: **4** Rarely: **12** ➡ Not at all, but plan to use: **12** Not at all, and no plans to use: **16** ⬇ *(Go to next provision)*	Sped up greatly: **2** Sped up somewhat: **4** No effect: **11** Slowed down somewhat: **0** Slowed down greatly: **0** Too soon to judge: **4**
(Optional) Comments on your answers:			

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	A. Is your agency aware of this provision? (Mark only one box)	B. If Yes to 'A,' how often in the past five years has your agency used this provision across all highway projects? (Mark only one box)	C. If any use marked in 'B,' in what way has this provision affected the speed of project delivery at your agency? (Mark only one box)
2. Categorical Exclusion in Emergencies Designates the repair or reconstruction of any road, highway, or bridge that was damaged by an emergency as a categorical exclusion. *MAP-21: Sec. 1315 [PDF p.549]* *23 CFR 771.117(c)(9) [PDF p.1]*	Yes **52** ➡ No **0** ⬇ *(Go to next provision)*	Frequently **8** Sometimes **17** ➡ Rarely **19** Not at all, but plan to use **2** Not at all, and no plans to use **6** ⬇ *(Go to next provision)*	Sped up greatly **14** Sped up somewhat **17** No effect **13** Slowed down somewhat **0** Slowed down greatly **0** Too soon to judge **0**
(Optional) Comments on your answers:			
3. Categorical Exclusion for Projects Within the Right-of-Way Designates a project within an operational right-of-way as a categorical exclusion. *MAP-21: Sec. 1316 [PDF p.549]* *23 CFR 771.117(c)(18) [PDF p.2]*	Yes **52** ➡ No **0** ⬇ *(Go to next provision)*	Frequently **18** Sometimes **16** ➡ Rarely **8** Not at all, but plan to use **4** Not at all, and no plans to use **6** ⬇ *(Go to next provision)*	Sped up greatly **9** Sped up somewhat **21** No effect **12** Slowed down somewhat **0** Slowed down greatly **0** Too soon to judge **0**
(Optional) Comments on your answers:			

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	A. Is your agency aware of this provision? (Mark only one box)	B. If Yes to 'A,' how often in the past five years has your agency used this provision across all highway projects? (Mark only one box)	C. If any use marked in 'B,' in what way has this provision affected the speed of project delivery at your agency? (Mark only one box)
4. **Categorical Exclusion for Projects with Limited Federal Funds** Authorizes the designation of a categorical exclusion for projects receiving less than $5 million in federal funds, or less than 15 percent federal funds for a project under $30 million, subject to an annual inflation adjustment. *MAP-21: Sec. 1317 [PDF p.550]* *FAST Act: Sec. 1314 [PDF p 1402]*	Yes **50** ➡ No **2** ⬇ *(Go to next provision)*	Frequently **9** Sometimes **7** Rarely **14** ➡ Not at all, but plan to use **6** Not at all, and no plans to use **12** ⬇ *(Go to next provision)*	Sped up greatly **2** Sped up somewhat **19** No effect **8** Slowed down somewhat **0** Slowed down greatly **0** Too soon to judge **3**
(Optional) Comments on your answers:			

Do you have any comments or anything further to add on the statutory Categorical Exclusion provisions?
(add pages if needed)

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	A. Is your agency aware of this provision? (Mark only one box)	B. If Yes to 'A,' how often in the past five years has your agency used this provision across all highway projects? (Mark only one box)	C. If any use marked in 'B,' in what way has this provision affected the speed of project delivery at your agency? (Mark only one box)
The following Categorical Exclusions were created by regulation, as a result of requirements from MAP-21: Sec. 1318.			
5. **Categorical Exclusion for Geotechnical and Archeological Investigations** For highway projects, designates a categorical exclusion for geotechnical and archeological investigations to provide information for preliminary design. *MAP-21: Sec. 1318(a)-(c) [PDF p.550]* *23 CFR Part 771.117(c)(24) [PDF p.2]*	Yes **46** ➡ No **6** ⬇ *(Go to next provision)*	Frequently **3** Sometimes **5** Rarely **11** Not at all, but plan to use **7** Not at all, and no plans to use **19** ⬇ *(Go to next provision)*	Sped up greatly **2** Sped up somewhat **4** No effect **10** Slowed down somewhat **2** Slowed down greatly **0** Too soon to judge **2**
(Optional) Comments on your answers:			
6. **Categorical Exclusion for Environmental Restoration** For highway projects, designates environmental restoration and pollution abatement actions to minimize or mitigate the impact of any existing transportation facility *MAP-21: Sec. 1318(a)-(c) [PDF p.550]* *23 CFR Part 771.117(c)(25) [PDF p.3]*	Yes **46** ➡ No **6** ⬇ *(Go to next provision) (Go to next provision)*	Frequently **2** Sometimes **3** Rarely **14** Not at all, but plan to use **9** Not at all, and no plans to use **18** ⬇ *(Go to next provision)*	Sped up greatly **3** Sped up somewhat **3** No effect **11** Slowed down somewhat **0** Slowed down greatly **0** Too soon to judge **4**
(Optional) Comments on your answers:			

GAO questionnaire on project delivery provisions 7

	A. Is your agency aware of this provision? (Mark only one box)	B. If Yes to 'A,' how often in the past five years has your agency used this provision across all highway projects? (Mark only one box)	C. If any use marked in 'B,' in what way has this provision affected the speed of project delivery at your agency? (Mark only one box)
7. **Categorical Exclusion for Highway Modernization** For highway projects, designates resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes as a categorical exclusion *MAP-21: Sec. 1318(c)(1) [PDF p.550]* *23 CFR Part 771.117(c)(26) [PDF p 3]*	Yes **52** ➡ No **0** ⬇ *(Go to next provision)*	Frequently **31** Sometimes **13** ➡ Rarely **2** Not at all, but plan to use **1** Not at all, and no plans to use **4** ⬇ *(Go to next provision)*	Sped up greatly **13** Sped up somewhat **17** No effect **15** Slowed down somewhat **2** Slowed down greatly **0** Too soon to judge **0**
(Optional) Comments on your answers:			
8. **Categorical Exclusion for Highway Safety and Operational Improvement** For highway projects, designates highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting, as a categorical exclusion. *MAP-21: Sec. 1318(c)(2) [PDF p.551]* *23 CFR Part 771.117(c)(27) [PDF p.3]*	Yes **52** ➡ No **0** ⬇ *(Go to next provision)*	Frequently **22** Sometimes **18** ➡ Rarely **7** Not at all, but plan to use **1** Not at all, and no plans to use **4** ⬇ *(Go to next provision)*	Sped up greatly **11** Sped up somewhat **15** No effect **20** Slowed down somewhat **1** Slowed down greatly **0** Too soon to judge **0**
(Optional) Comments on your answers:			

	A. Is your agency aware of this provision? (Mark only one box)	B. If Yes to 'A,' how often in the past five years has your agency used this provision across all highway projects? (Mark only one box)	C. If any use marked in 'B,' in what way has this provision affected the speed of project delivery at your agency? (Mark only one box)
9. Categorical Exclusion for Bridge Projects at Railway-Highway Crossings For highway projects, designates bridge rehabilitation, reconstruction, or replacement or the construction of grade separation to replace existing at-grade railroad crossings, as a categorical exclusion *MAP-21: Sec. 1318(c)(3) [PDF p.551]* *23 CFR Part 771.117(c)(28) [PDF p.3]*	Yes **50** ➡ No **2** ⬇ *(Go to next provision)*	Frequently **14** Sometimes **19** ➡ Rarely **7** Not at all, but plan to use **4** Not at all, and no plans to use **5** ⬇ *(Go to next provision)*	Sped up greatly **8** Sped up somewhat **11** No effect **18** Slowed down somewhat **2** Slowed down greatly **0** Too soon to judge **1**
(Optional) Comments on your answers			
10. Categorical Exclusion for Ferry Vessels For FHWA-funded ferry projects, designates the purchase, construction, replacement, or rehabilitation of ferry vessels that would not require a change in the function of the ferry terminals as a categorical exclusion. *MAP-21: Sec. 1318(a)-(c) [PDF p.550]* *23 CFR Part 771.117(c)(29) [PDF p.3]*	Yes **42** ➡ No **7** ⬇ *(Go to next provision)*	Frequently **2** Sometimes **2** ➡ Rarely **11** Not at all, but plan to use **8** Not at all, and no plans to use **19** ⬇ *(Go to next provision)*	Sped up greatly **3** Sped up somewhat **2** No effect **8** Slowed down somewhat **0** Slowed down greatly **0** Too soon to judge **2**
(Optional) Comments on your answers:			

GAO questionnaire on project delivery provisions 9

	A. Is your agency aware of this provision? (Mark only one box)	B. If Yes to 'A,' how often in the past five years has your agency used this provision across all highway projects? (Mark only one box)	C. If any use marked in 'B,' in what way has this provision affected the speed of project delivery at your agency? (Mark only one box)
11. Categorical Exclusion for Ferry Facilities For FHWA-funded ferry terminal projects, designates the rehabilitation or reconstruction of existing ferry facilities as a categorical exclusion. *MAP-21: Sec. 1318(a)-(c) [PDF p.550]* *23 CFR Part 771.117(c)(30) [PDF p 3]*	Yes **45** ➡ No **6** ⬇ *(Go to next provision)*	Frequently **2** Sometimes **3** ➡ Rarely **13** Not at all, but plan to use **7** Not at all, and no plans to use **20** ⬇ *(Go to next provision)*	Sped up greatly **3** Sped up somewhat **4** No effect **9** Slowed down somewhat **0** Slowed down greatly **0** Too soon to judge **3**
(Optional) Comments on your answers:			

Do you have any comments or anything further to add on the Categorical Exclusion provisions created by regulation?
(add pages if needed)

GAO questionnaire on project delivery provisions 10

	A. Is your agency aware of this provision? (Mark only one box)	B. If Yes to 'A,' how often in the past five years has your agency used this provision across all highway projects? (Mark only one box)	C. If any use marked in 'B,' in what way has this provision affected the speed of project delivery at your agency? (Mark only one box)
4(f) "de minimis impact"			
12. Minor Impacts to Protected Public Land Authorizes a historic site, park land, or refuge to be used for a transportation program or project if it is determined that "de minimis impact" would result. *SAFETEA-LU: Sec. 6009 [PDF p.732]*	Yes **52** ➡ No **0** ⬇ *(Go to next provision)*	Frequently **31** Sometimes **16** ➡ Rarely **3** Not at all, but plan to use **2** Not at all, and no plans to use **0** ⬇ *(Go to next provision)*	Sped up greatly **33** Sped up somewhat **13** No effect **2** Slowed down somewhat **1** Slowed down greatly **0** Too soon to judge **0**
(Optional) Comments on your answers:			
Administrative Changes			
13. Planning Products for Use in NEPA Review Authorizes the lead agency for a project to use planning products, such as planning decisions, analysis, or studies, in the environmental review process of the project. *MAP-21: Sec. 1310 [PDF p.540]* *FAST Act. Sec. 1305 [PDF p.1386]*	Yes **50** ➡ No **2** ⬇ *(Go to next provision)*	Frequently **4** Sometimes **21** ➡ Rarely **14** Not at all, but plan to use **8** Not at all, and no plans to use **2** ⬇ *(Go to next provision)*	Sped up greatly **6** Sped up somewhat **18** No effect **7** Slowed down somewhat **1** Slowed down greatly **1** Too soon to judge **6**
(Optional) Comments on your answers:			

GAO questionnaire on project delivery provisions 11

	A. Is your agency aware of this provision? (Mark only one box)	B. If Yes to 'A,' how often in the past five years has your agency used this provision across all highway projects? (Mark only one box)	C. If any use marked in 'B,' in what way has this provision affected the speed of project delivery at your agency? (Mark only one box)
14. Combine Final Environmental Impact Statement and Record of Decision in Certain Cases Allows the lead agency of a project, in order to expedite decisions, to use an errata sheet attached to a final EIS, instead of rewriting it, if the comments are minor. Also, to the maximum extent practicable, combines the final EIS and record of decision in certain cases. *FAST Act: Sec. 1311 &1304(j) [PDF p.1398 & 1385]*	Yes **50** ➡ No **2** ⬇ *(Go to next provision)*	Frequently **4** Sometimes **5** ➡ Rarely **12** Not at all, but plan to use **22** Not at all, and no plans to use **7** ⬇ *(Go to next provision)*	Sped up greatly **4** Sped up somewhat **12** No effect **0** Slowed down somewhat **0** Slowed down greatly **0** Too soon to judge **8**
(Optional) Comments on your answers:			
15. Environmental Documents for Use Among DOT Administrations on Similar Projects Authorizes the operating administrations of DOT to adopt a draft EIS, EA, or final EIS of another operating administration without recirculating the document for public review if the proposed action is substantially the same as the project considered in the document to be adopted *FAST Act: Sec. 1311 [PDF p.1398]*	Yes **43** ➡ No **9** ⬇ *(Go to next provision)*	Frequently **0** Sometimes **3** ➡ Rarely **11** Not at all, but plan to use **15** Not at all, and no plans to use **14** ⬇ *(Go to next provision)*	Sped up greatly **3** Sped up somewhat **6** No effect **5** Slowed down somewhat **0** Slowed down greatly **0** Too soon to judge **1**
(Optional) Comments on your answers:			

GAO questionnaire on project delivery provisions 12

	A. Is your agency aware of this provision? (Mark only one box)	B. If Yes to 'A,' how often in the past five years has your agency used this provision across all highway projects? (Mark only one box)	C. If any use marked in 'B,' in what way has this provision affected the speed of project delivery at your agency? (Mark only one box)
16. Reduce Duplicate Consideration of Alternatives Authorizes the lead agency to reduce duplication, by eliminating from detailed consideration an alternative proposed in an EIS if the alternative was already proposed in a planning process or state environmental review process *FAST Act: Sec. 1304(f)(2)(C) [PDF p.1382]*	Yes **46** ➡ No **5** ⬇ *(Go to next provision)*	Frequently **0** Sometimes **6** Rarely **15** Not at all, but plan to use **17** Not at all, and no plans to use **8** ⬇ *(Go to next provision)*	Speed up greatly **1** Sped up somewhat **11** No effect **2** Slowed down somewhat **0** Slowed down greatly **0** Too soon to judge **8**
(Optional) Comments on your answers:			

Do you have any comments or anything further to add on the administrative changes provisions?
(add pages if needed)

GAO questionnaire on project delivery provisions 13

	A. Is your agency aware of this provision? (Mark only one box)	B. If Yes to 'A,' how often in the past five years has your agency used this provision across all highway projects? (Mark only one box)	C. If any use marked in 'B,' in what way has this provision affected the speed of project delivery at your agency? (Mark only one box)
Coordination/Collaboration			
17. Offering Financial Assistance to Stakeholder Agencies Allows a state to use its federal highway funds to support a federal or state agency or Indian tribe participating in the environmental review process on activities that directly contribute to expediting and improving project planning and delivery *SAFETEA-LU: Sec. 6002(a) [PDF p.715]* *MAP-21: Sec. 1307 [PDF p.539]* *FAST Act: Sec. 1304(i) &1312 [PDF p.1384 & 1399]*	Yes **48** ➡ No **4** ⬇ *(Go to next provision)*	Frequently **16** Sometimes **7** Rarely **9** Not at all, but plan to use **6** Not at all, and no plans to use **9** ⬇ *(Go to next provision)*	Sped up greatly **13** Sped up somewhat **10** No effect **5** Slowed down somewhat **0** Slowed down greatly **1** Too soon to judge **4**
(Optional) Comments on your answers:			
18. Early Coordination Activities in Environmental Review Process Encourages early cooperation between DOT and other agencies, including States or local planning agencies, in the environmental review process to avoid delay and duplication, and suggests early coordination activities. Early coordination includes establishment of MOUs with States or local planning agencies. *MAP-21: Sec. 1320 [PDF p.551]*	Yes **52** ➡ No **0** ⬇ *(Go to next provision)*	Frequently **20** Sometimes **16** Rarely **7** Not at all, but plan to use **6** Not at all, and no plans to use **2** ⬇ *(Go to next provision)*	Sped up greatly **10** Sped up somewhat **17** No effect **12** Slowed down somewhat **0** Slowed down greatly **0** Too soon to judge **3**
(Optional) Comments on your answers:			

GAO questionnaire on project delivery provisions 14

	A. Is your agency aware of this provision? (Mark only one box)	B. If Yes to 'A,' how often in the past five years has your agency used this provision across all highway projects? (Mark only one box)	C. If any use marked in 'B,' in what way has this provision affected the speed of project delivery at your agency? (Mark only one box)
Do you have any comments or anything further to add on the coordination/collaboration provisions?			
(add pages if needed)			

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Part IIB.

In Part IIB of the questionnaire, for each provision listed, GAO has paraphrased a provision title and description, and included citations for the statute(s) that created/amended it. We included Internet hyperlinks to U.S. Government Publishing Office websites, for reference to citations if needed. (You must be connected to the Internet to use this feature.)

- For each provision- please respond to questions 'A' and 'C,' which are the same questions from Part IIA. We excluded question 'B' from this section.

	A. Is your agency aware of this provision? (Mark only one box)		C. In what way has this provision affected the speed of project delivery at your agency? (Mark only one box)
Required Provisions (Note: Please provide a response for questions 'A' and 'C.' Question 'B' is not included as the required provisions apply to all projects since their enactment.)			
19. 150-Day Statute of Limitations Bars claims seeking judicial review of a permit, license, or approval issued by a federal agency for highway projects unless they are filed within 150 days after publication of a notice in the *Federal Register* announcing the final agency action, or unless a shorter time is specified in the federal law under which the judicial review is allowed. *SAFETEA-LU: Sec. 6002 [PDF p.723]* *MAP-21: Sec. 1308 [PDF p.539]*	Yes **46** ➡ No **6** ⬇ *(Go to next provision)*		Sped up greatly **2** Sped up somewhat **16** No effect **14** Slowed down somewhat **0** Slowed down greatly **0** Too soon to judge **13**
(Optional) Comments on your answers:			

GAO questionnaire on project delivery provisions 18

	A. Is your agency aware of this provision? (Mark only one box)		C. In what way has this provision affected the speed of project delivery at your agency? (Mark only one box)
20. Programmatic Mitigation Plans for Use in NEPA Review Requires that any federal agency responsible for environmental review to give substantial weight to a state or metropolitan programmatic mitigation plan, if one had been developed as part of the transportation planning process, when carrying out responsibilities under NEPA or other environmental law. *MAP-21: Sec. 1311 [PDF p.543]* *FAST Act: Sec. 1306 [PDF p.1306]*	Yes **41** ➡ No **11** ⬇ *(Go to next provision)*		Sped up greatly **3** Sped up somewhat **3** No effect **17** Slowed down somewhat **0** Slowed down greatly **0** Too soon to judge **15**
(Optional) Comments on your answers:			
21. 45-Day Limit to Identify Resource Agencies Establishes a 45-day limit after the notice of intent date for a lead agency to identify other agencies to participate in the environmental review process on EIS projects. *FAST Act: Sec. 1304(d)(1) [PDF p.1379]*	Yes **45** ➡ No **7** ⬇ *(Go to next provision)*		Sped up greatly **1** Sped up somewhat **3** No effect **20** Slowed down somewhat **1** Slowed down greatly **0** Too soon to judge **19**
(Optional) Comments on your answers:			

GAO questionnaire on project delivery provisions 17

	A. Is your agency aware of this provision? (Mark only one box)		C. In what way has this provision affected the speed of project delivery at your agency? (Mark only one box)
22. Single NEPA Document Requires to the maximum extent practicable and consistent with federal law, for the EIS project lead agency to develop a single NEPA document to satisfy the requirements for federal approval or other federal action, including permits. *FAST Act: Sec. 1304(d)(2) [PDF p.1380]*	Yes **47** ➡ No **4** ⬇ *(Go to next provision)*		Sped up greatly **4** Sped up somewhat **7** No effect **12** Slowed down somewhat **3** Slowed down greatly **0** Too soon to judge **19**
(Optional) Comments on your answers:			
23. Initiation of Environmental Review Process Creates several requirements at the start of an EIS project's environmental review process, such as 1) establishing a 45 day deadline for DOT to provide a written response to the project sponsor on initiation of the environmental review process; 2) establishing a 45 day deadline for DOT to respond to a request for designation of a lead agency; and 3) requiring the development of a checklist by the lead agency, as appropriate, to help identify natural, cultural, and historic resources, to identify cooperating and participating agencies and improve interagency collaboration. *FAST Act: Sec. 1304(e.) [PDF p.1380]*	Yes **48** ➡ No **4** ⬇ *(Go to next provision)*		Sped up greatly **2** Sped up somewhat **4** No effect **18** Slowed down somewhat **3** Slowed down greatly **0** Too soon to judge **20**
(Optional) Comments on your answers:			

GAO questionnaire on project delivery provisions 18

	A. Is your agency aware of this provision? (Mark only one box)		C. In what way has this provision affected the speed of project delivery at your agency? (Mark only one box)
24. Issue Resolution Process Establishes procedures to resolve issues between state DOTs and relevant resource agencies. *SAFETEA-LU: Sec. 6002(a) [PDF p.715]* *MAP-21: Sec. 1306 [PDF p.535]*	Yes **47** ➡ No **4** ⬇ *(Go to next provision)*		Sped up greatly **1** Sped up somewhat **3** No effect **26** Slowed down somewhat **0** Slowed down greatly **0** Too soon to judge **14**
(Optional) Comments on your answers:			
25. Accelerating Environmental Review of Complex Projects At the request of a project sponsor or a Governor of the State in which the project is located, requires DOT to provide additional technical assistance for a project where EIS review has taken 2 years, and establish a schedule for review completion within 4 years. *MAP-21: Sec. 1309 [PDF p.539]*	Yes **47** ➡ No **5** ⬇ *(Go to next provision)*		Sped up greatly **1** Sped up somewhat **4** No effect **19** Slowed down somewhat **0** Slowed down greatly **0** Too soon to judge **20**
(Optional) Comments on your answers:			

	A. Is your agency aware of this provision? (Mark only one box)		C. In what way has this provision affected the speed of project delivery at your agency? (Mark only one box)
26. Programmatic Agreements for Efficient Environmental Review Requires DOT to seek opportunities with states to enter into programmatic agreements to carry out environmental and other project reviews. *MAP-21: Sec. 1318(d) [PDF p.551]*	Yes **52** ➡ No **0** ⬇ *(Go to next provision)*		Sped up greatly **24** Sped up somewhat **15** No effect **11** Slowed down somewhat **0** Slowed down greatly **0** Too soon to judge **1**
(Optional) Comments on your answers:			
27. Stakeholder Agency Comments in Area of Expertise Limits the comments of participating agencies to subject matter areas within the special expertise or jurisdiction of the agency. *FAST Act: Sec. 1304(f)(2)(A) [PDF p.1381]*	Yes **45** ➡ No **7** ⬇ *(Go to next provision)*		Sped up greatly **1** Sped up somewhat **9** No effect **17** Slowed down somewhat **0** Slowed down greatly **0** Too soon to judge **14**
(Optional) Comments on your answers:			

GAO questionnaire on project delivery provisions 20

	A. Is your agency aware of this provision? (Mark only one box)		C. In what way has this provision affected the speed of project delivery at your agency? (Mark only one box)
28. Coordination Plan for Public and Agency Participation Requires a coordination plan for public and agency participation in the environmental review process within 90 days of notice of intent or the initiation of an Environmental Assessment, including a schedule for completion of the environmental review process for the project. *FAST Act: Sec. 1304(g)(1) [PDF p.1383]*	Yes **45** ➡ No **7** ⬇ *(Go to next provision)*		Sped up greatly **1** Sped up somewhat **6** No effect **16** Slowed down somewhat **7** Slowed down greatly **1** Too soon to judge **13**
(Optional) Comments on your answers:			
29. Resolved Issues are Not Reconsidered Without Significant New Information Issues that are resolved by the lead agency with concurrence from stakeholder cannot be reconsidered unless there is significant new information or circumstances arise. *FAST Act: Sec. 1304(h)(1) [PDF p.1383]*	Yes **46** ➡ No **6** ⬇ *(Go to next provision)*		Sped up greatly **2** Sped up somewhat **8** No effect **12** Slowed down somewhat **1** Slowed down greatly **0** Too soon to judge **21**
(Optional) Comments on your answers:			

Do you have any comments or anything further to add on the required provisions?

(add pages if needed)

Thank you. You have completed the Highway Project Delivery Questionnaire.

Internet Hyperlinks

We provided the following Internet hyperlinks for reference to citations, if needed. You must be connected to the Internet to use this feature. If the hyperlink does not work, please copy and paste the following URLs into your Internet browser.

U.S. Government Publishing Office websites

SAFETEA-LU: https://www.gpo.gov/fdsys/pkg/PLAW-109publ59/pdf/PLAW-109publ59.pdf

MAP-21: https://www.gpo.gov/fdsys/pkg/PLAW-112publ141/pdf/PLAW-112publ141.pdf

FAST Act: https://www.gpo.gov/fdsys/pkg/PLAW-114publ94/pdf/PLAW-114publ94.pdf

23 CFR 771.117 FHWA Categorical Exclusions: https://www.gpo.gov/fdsys/pkg/CFR-2016-title23-vol1/pdf/CFR-2016-title23-vol1-sec771-117.pdf

Appendix V: Transit Agency Provisions Checklist and Responses Regarding Awareness and Use

Category	Provision number	Description	Are you aware of this project delivery provision? (Y or N)	Have you used this project delivery provision? (Y or N)
CE	1	Authorizes the lead agency of a multimodal project to apply categorical exclusions from the NEPA implementing regulations or procedures of a cooperating DOT operating administration.	9	1
CE	2	Designates the repair or reconstruction of any road, highway, or bridge that was damaged by an emergency as a categorical exclusion, subject to certain conditions.	9	1
CE	3	Designates a project within an operational right-of-way as a categorical exclusion, subject to certain conditions.	11	5
CE	4	Authorizes the designation of a categorical exclusion for projects receiving less than $5 million in federal funds, or less than 15 percent federal funds for a project under $30 million, subject to an annual inflation adjustment.	8	0
CE	5	For transit projects, designates bridge removal and bridge removal related activities, such as in-channel work, disposal of materials and debris as a categorical exclusion.	9	0
CE	6	For transit projects, designates preventative maintenance, including safety treatments, to culverts and channels within and adjacent to transportation right-of-way as a categorical exclusion.	8	2
CE	7	For transit projects, designates geotechnical and archeological investigations to provide information for preliminary design, environmental analyses, and permitting purposes as a categorical exclusion	9	5
CE	8	For transit projects, designates minor transportation facility realignment for rail safety reasons, such as improving vertical and horizontal alignment of railroad crossings, as a categorical exclusion.	11	3
CE	9	For transit projects, designates modernization or minor expansions of transit structures and facilities outside existing right-of-way, such as bridges, stations, or rail yards, as a categorical exclusion.	10	1
Parkland exclusion	10	Authorizes a historic site, park land, or refuge to be used for a transportation program or project if it is determined that "*de minimis* impact" would result.	9	7
Admin changes	11	Bars claims seeking judicial review of a permit, license, or approval issued by a federal agency for projects unless they are filed within 150 days after publication of a notice in the *Federal Register* announcing the final agency action, unless a shorter time is specified in the federal law under which the judicial review is allowed.	9	4

Category	Provision number	Description	Are you aware of this project delivery provision? (Y or N)	Have you used this project delivery provision? (Y or N)
Admin changes	12	Authorizes the lead agency for a project to use planning products, such as planning decisions, analysis, or studies, in the environmental review process of the project.	10	6
Admin changes	13	Requires that any federal agency responsible for environmental review to give substantial weight to a state or metropolitan programmatic mitigation plan, if one had been developed as part of the transportation planning process, when carrying out responsibilities under NEPA or other environmental law.	8	0
Admin changes	14	Allows the lead agency of a project, in order to expedite decisions, to use an errata sheet attached to a final EIS, instead of rewriting it, if the comments are minor. Also, to the maximum extent practicable, combines the final EIS and record of decision in certain cases.	10	3
Admin changes	15	Authorizes the operating administrations of DOT to adopt a draft EIS, EA, or final EIS of another operating administration without recirculating the document for public review if the proposed action is substantially the same as the project considered in the document to be adopted.	7	2
Admin changes	16	Establishes a 45-day limit after the notice of intent date for a lead agency to identify other agencies to participate in the environmental review process on EIS projects.	9	1
Admin changes	17	To the maximum extent practicable and consistent with federal law, requires lead agencies to develop a single NEPA document to satisfy the requirements for federal approval or other federal action, including permits.	10	2
Admin changes	18	Creates several requirements at the start of a project's Section 139 environmental review process, such as 1) establishing a 45-day deadline for DOT to provide a written response to the project sponsor on initiation of the environmental review process; 2) establishing a 45-day deadline for DOT to respond to a request for designation of a lead agency; and 3) requiring the development of a checklist by the lead agency to help identify natural, cultural, and historic resources, to identify agencies and improve interagency collaboration.	8	0
Admin changes	19	Authorizes the lead agency to reduce duplication, by eliminating from detailed consideration an alternative proposed in an EIS if the alternative was already proposed in a planning process or state environmental review process, subject to certain conditions.	9	2
Coordination	20	Allows a state to use its federal funds to support a federal or state agency or Indian tribe participating in the environmental review process on activities that directly contribute to expediting and improving project planning and delivery.	8	1

Category	Provision number	Description	Are you aware of this project delivery provision? (Y or N)	Have you used this project delivery provision? (Y or N)
Coordination	21	Establishes procedures to resolve issues between project sponsors and relevant resource agencies.	8	0
Coordination	22	At the request of a project sponsor or a governor of the state in which the project is located, requires DOT to provide additional technical assistance for a project where EIS review has taken 2 years, and establish a schedule for review completion within 4 years.	5	0
Coordination	23	Requires DOT to seek opportunities with states to enter into programmatic agreements to carry out environmental and other project reviews.	7	1
Coordination	24	Encourages early cooperation between DOT and other agencies, including states or local planning agencies, in the environmental review process to avoid delay and duplication, and suggests early coordination activities. Early coordination includes establishment of MOUs with states or local planning agencies.	9	5
Coordination	25	Limits the comments of participating agencies to subject matter areas within the special expertise or jurisdiction of the agency.	8	3
Coordination	26	Requires a coordination plan for public and agency participation in the Section 139 environmental review process within 90 days of a Notice of Intent or the initiation of an Environmental Assessment, including a schedule.	9	3
Coordination	27	Issues that are resolved by the lead agency with concurrence from stakeholders cannot be reconsidered unless there is significant new information or circumstances arise.	4	0
Project Delivery	28	Permits states or local transportation agencies to release requests for proposals and award design-build contracts prior to the completion of the NEPA process; however, it precludes a contractor from proceeding with final design or construction before completion of the NEPA process.	10	6
Project Delivery	29	Authorizes states to acquire real property interests for a project before completion of the NEPA process.	10	2
Project Delivery	30	Authorizes the awarding of contracts for the preconstruction services and preliminary design of a project using a competitive selection process before the completion of the NEPA process.	7	0

Source: GAO analysis. | GAO-18-222

Appendix VI: Comments from the Department of Transportation

U.S. Department of Transportation
Office of the Secretary of Transportation

Assistant Secretary for Administration

1200 New Jersey Avenue, SE
Washington, DC 20590

DEC 18 2017

Susan Fleming
Director, Physical Infrastructure Issues
U.S. Government Accountability Office (GAO)
441 G Street NW
Washington, DC 20548

Dear Ms. Fleming:

The Department of Transportation (DOT) is committed to accelerating project delivery while preserving and enhancing the quality of the human and natural environments. Congress provided provisions in legislation aimed at accelerating the delivery of highway and transit projects. The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) have considerable flexibilities to accelerate project delivery, including the Surface Transportation Project Delivery Program under section 327 of title 23, United States Code (U.S.C.), commonly referred to as the National Environmental Policy Act (NEPA) Assignment Program.

FHWA provides continuous, timely, and constructive technical assistance to States in the NEPA Assignment Program, to include the following examples:

- Creating an Environmental Review Toolkit;
- Conducting NEPA Assignment State workshops;
- Conducting technical training in NEPA, at the request of the State;
- Conducting readiness assessments to identify areas of improvements in advance of taking on assignment responsibilities under 23 U.S.C. 326 and 327; and
- Collaborating daily with States that express interest in the program to ensure successful implementation.

The NEPA Assignment Program statute requires the Secretary of Transportation to conduct annual audits and monitoring to ensure compliance by a State with the agreement developed for program participation under 23 U.S.C. 327(g)(1) and (h). However, the statute does not require FHWA to measure environmental review efficiency and timeliness of participating States. While accelerating project delivery remains important, focusing only on timeliness metrics for environmental reviews in NEPA Assignment States overlooks other significant benefits of the Program. For example, the NEPA Assignment Program gives States control over when and how to conduct environmental reviews as long as they comply with the Federal requirements. This is one of the most significant factors that a State considers in deciding whether to request NEPA Assignment, and it is particularly important for the States with large Federal-aid highway programs.

Given these circumstances, we can only partially concur with GAO's recommendation to offer and provide guidance or technical assistance to NEPA assignment States on developing evaluation methodologies, including baseline time frames and timeliness measures.

Building upon existing guidance, we will clarify environmental review start times and communicate this to all FHWA Divisions and States. NEPA Assignment States may choose to use this guidance at their discretion. Additionally, we will provide the NEPA Assignment States with any Federal Government-wide guidance developed on this area as a result of Executive Order 13807 and other initiatives involving performance measures of environmental reviews. It is our practice to affirmatively notify NEPA Assignment States of any new guidance related to the environmental review of projects. We will provide a detailed response to the recommendation within 60 days of the final report's issuance.

We appreciate the opportunity to respond to the GAO draft report. Please contact Madeline M. Chulumovich, Director, Audit Relations and Program Improvement, at (202) 366-6512 with any questions.

Sincerely,

Keith Nelson
Assistant Secretary for Administration

Appendix VII: GAO Contact and Staff Acknowledgments

GAO Contact

Susan Fleming, (202) 512-2834 or flemings@gao.gov

Staff Acknowledgments

In addition to the contact named above, Steve Cohen (Assistant Director); Brian Chung (Analyst-in-Charge); Rich Johnson; Delwen Jones; Hannah Laufe; Ethan Levy; Ned Malone; Josh Ormond; Tina Paek; Cheryl Peterson; and Joe Thompson made significant contributions to this report.

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Senator BARRASSO. The time has now expired on the vote, and we need to get to the floor. I do want to thank the members who have attended.

I especially want to thank our esteemed guests, Madam Secretary, as well as Assistant Secretary James. I want to thank you for your time, and I want to thank you for this crucial discussion regarding the Administration's infrastructure plans.

People may submit additional questions for the record. The record will remain open for 2 weeks.

Thank you again for being here and joining us.

With that, this hearing is adjourned.

[Whereupon, at 12:10 p.m., the Committee was adjourned.]

[Additional material submitted for the record follows:]

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Eno Transportation Weekly

Week of September 25, 2017

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Trump Upends His Own Infrastructure Plan With PPP Comments to Democrats

By Jeff Davis
Senior Fellow and Editor, Eno Transportation Weekly

Infrastructure OMB P3 PPP

September 29, 2017

President Trump unexpectedly distanced himself from one of the core principles of his own Administration's infrastructure plan this week – an increased reliance on public-private partnerships to finance infrastructure. In a meeting with bipartisan members of the House Ways and Means Committee to discuss tax reform on September 26, Trump apparently said that most "PPPs" are "more trouble than they're worth." (Reps. Brian Higgins (D-NY) and Richard Neal (D-MA) gave the quotes and the story to the *Wall Street Journal* and the *Washington Post* in separate articles the night of September 26.

Vice President Mike Pence was also in the meeting, and according to the *WSJ* article, Trump singled out the big P3 in Pence's home state of Indiana – the lease of the 156-mile Indiana Toll Road to a private venture for 75 years (2006 to 2081) in exchange for $3.8 billion in cash up front, which was used by the Indiana DOT to pay for a 10-year program of building new transportation infrastructure throughout the state. Rep. Higgins told the *WSJ* that Trump said "They tried it in Mike's state and it didn't work."

(*Ed. Note:* In any two-party transaction, you need to be careful saying "it" didn't work. Financially, the agreement has worked as intended (so far) for the State of Indiana – they got their $3.8 billion check, cashed it, and built roads with it. Whether it works for Indiana in the future depends on how much Indiana might need to build a road competing with the toll road between now and the year 2081 but will be forbidden to do so by the P3 lease agreement, and how well the private operator maintains the toll road. The venture did not work out for the original P3 partner, a joint venture of Cintra and Maquarie, which had some bad revenue and debt service assumptions in its business plan (see this *Forbes* article for details) and which may have overpaid for the toll road in the first place. The Cintra-Maquarie joint venture declared bankruptcy in 2014 and was bought for $5.7 billion in 2015 by IFM Investors. The original P3 was done under Governor Mitch Daniels (R) and the re-sale of the bankrupt private side was handled by Gov. Pence.)

(*Further Ed. Note:* By dumping on the Indiana project in particular, Trump is especially distancing himself from the "asset recycling" concept, because of all the P3 infrastructure projects in America to date, it is the Indiana one that most resembles the asset recycling concept as practiced in Australia and elsewhere.)

It's hard to overstate how at odds this is from everything we thought we knew about the Trump Administration's forthcoming infrastructure plan. A brief timeline:

- **October 2016** – Future Commerce Secretary Wilbur Ross and future White House trade advisor Peter Navarro release, through the Trump campaign, a white paper on infrastructure relying almost completely on private equity, backed with an 82 percent tax credit on private equity investments in infrastructure, the cost of which tax credit would be fully offset by overseas corporate income repatriation. The private equity would total $1 trillion, necessitating a federal tax credit of $121 billion.

- **May 2017** – The White House releases its full budget request for 2018, which includes $200 billion in federal infrastructure funding in 2018 to leverage $800 million in "incentivized non-federal funding" for a $1 trillion total. A fact sheet issued by OMB at the time said that "While public-private partnerships will not be the solution to all infrastructure needs, they can help advance the Nation's most important, regionally significant projects."

- **July 2017** – DOT rewrites the guidelines for its annual FASTLANE grants into a new INFRA program with selection criteria that emphasize leverage: "In addition, the Department seeks to increase the sources of infrastructure funding by encouraging private infrastructure investment. Therefore projects that incorporate private sector contributions, including through a public-private partnership structure, are likely to be more competitive than those that rely solely on public non-

Federal funding. Likewise, applicants who have pursued private funds for appropriate projects are likely to be more competitive under this program than applicants who have not.

- **August 2017** – OMB Director Mick Mulvaney, Transportation Secretary Elaine Chao, and other Administration officials brief state and local government officials on the infrastructure plan, and continue to emphasize private equity investment.

This reaction from the godfather of the privatization movement, Bob Poole of the Reason Foundation, was pretty typical: "I was both astonished and dismayed. Everything the administration had said up until yesterday was that public private partnerships and private investment in infrastructure improvements was going to be the core of the program."

As noted above, the budget itself calls for $200 billion in real mandatory budget authority in 2018 (pay-for TBD) to leverage an additional $800 billion in non-federal funding. It had been assumed by nearly everyone that a substantial chunk of that $800 billion, especially in major urban areas where there is a lot of passenger and freight through-put, would be private equity. If private equity is not going to fund a substantial chunk of that $800 billion, then there are only two options that can allow the "$1 trillion" top line number to stay in place:

1. The White House needs to increase the actual amount of real federal dollars provided to well over $200 billion (some Democrats this week suggested going to $500 billion), or

2. State and local governments are going to have to pick up many billion (possibly several hundred billion) dollars more of the tab for the President's $1 trillion infrastructure plan than they had though as of last week.

(Trump's about-face came the week after Maryland Governor Larry Hogan (R) unveiled his plan for the largest P3 project in U.S. history – see here for details.)

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President Donald Trump told members he would lead on promoting a 25-cent hike to the federal levy, the source said. | Chris Kleponis/Getty Images

Trump endorses 25-cent gas tax hike, lawmakers say

The news triggers a backlash from anti-tax conservatives.

By **LAUREN GARDNER**, **TANYA SNYDER** and **BRIANNA GURCIULLO** | 02/14/2018 03:44 PM EST | Updated 02/14/2018 11:06 PM EST

President Donald Trump endorsed the idea of a 25 cent-per-gallon gas tax increase at a meeting Wednesday with lawmakers, people who attended the session said — a move that could help pay for his big infrastructure plan but brought swift attacks from anti-tax conservatives.

Trump's support came just two days after the White House released a long-awaited, $1.5 trillion infrastructure plan that didn't endorse such a politically perilous increase, and less than two months after he signed a mammoth tax code overhaul that would have provided cover for lawmakers supporting it. The last president to hike the 18.4-cents-per-gallon federal gas tax was Bill Clinton in 1993, a year before Democrats lost both chambers of Congress in a crushing midterm defeat.

A 25-cent hike phased in over five years would generate an additional $375 billion over the next 10 years, according to the U.S. Chamber of Commerce, which backs the idea.

Sen. Tom Carper (D-Del.), one of several lawmakers of parties who attended the meeting, confirmed that Trump had indeed "offered his support for raising the gas and diesel tax by 25 cents a gallon and dedicating that money to improve our roads, highways, and bridges."

Carper added that Trump "came back to the idea of a 25 cent increase several times throughout the meeting," and that he "even offered to help provide the leadership necessary so that we could do something that has proven difficult in the past."

Rep. Peter DeFazio (D-Ore.), the top Democrat on the House Transportation Committee, emerged from the meeting saying he was heartened by Trump's words.

"He acknowledged that there needs to be more federal investment than is proposed in his plan — or not his plan; his staff's plan," DeFazio said. Trump's infrastructure proposal Monday called for using just $200 billion in federal money, which the White House has said would all be offset by budget cuts.

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A White House official refused to confirm the president's comments in Wednesday's meeting. But the official noted that Trump has previously said everything is on the table to achieve his infrastructure goals and that the gas tax "has its pros and cons, and that's why the president is leading a thoughtful discussion on the right way to solve our nation's infrastructure problems."

But anti-tax conservative groups quickly came out swinging against hiking the taxes motorists pay at the pump.

"I'd hate to see a new tax siphon off 20 percent of the $1,000 tax reform bonuses back to the swamp this year," said FreedomWorks President Adam Brandon in a statement issued within minutes after the news of Trump's change of heart. Similar statements came from groups including Americans for Tax Reform and Americans for Prosperity.

"President Trump will not be fooled into following the Democrat play book," Americans for Tax Reform President Grover Norquist said in a statement.

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Support for raising the gasoline tax to pay for transportation projects crosses political boundaries, however. House Transportation Chairman Bill Shuster (R-Pa.) brought up the idea at a recent GOP retreat as one way of providing more federal money for infrastructure.

DeFazio has also long called for a gas tax hike, his most recent proposal involving an increase of about a penny a year for 30 years.

In Wednesday's meeting, DeFazio said, he and Shuster "both made the point that we need really strong support from the White House" to push a gas tax increase forward. That's especially true, DeFazio said he told Trump, because House Speaker Paul Ryan (R-Wis.) is "not interested" in considering it.

If Trump follows through, it could mean billions of dollars in new revenue for infrastructure and help solve the intractable problem of the Highway Trust Fund's shrinking potency, which is due in part to increasing fuel economy and alternative-fuel vehicles that don't pay gasoline taxes.

Shuster said Trump also "understands you've got to find a pay-for, you've got to fix" the Highway Trust Fund.

Raising the gas tax would only go so far by itself, because Highway Trust Fund money cannot go to waterways, broadband service, airports, veterans hospitals or any of the other broad array of project types that Trump's infrastructure plan seeks to fund. But it could achieve more than many infrastructure supporters had expected of Trump's plan — offering a sustainable funding source instead of a short-term shot in the arm.

Though DeFazio was heartened by Trump's comments, he was critical of portions of the plan that give preferential treatment and a higher federal match for rural areas — even though some of those rural areas are in the Oregon Democrat's district. He also said he wants to see previously enacted regulatory streamlining provisions fully implemented before Congress approves more.

Even Shuster said he had questions about the portion of the administration's proposal that would favor states and local governments that plan to pay for most of an infrastructure project themselves.

"It doesn't work for all the states," Shuster said. "They're looking for the federal government to do its part."

Shuster said that lawmakers and Trump "didn't put a timetable on" a package, though Shuster indicated that he hopes to finish legislation before the August recess.

"We've got plenty of time to do it. I don't believe it's that difficult," Shuster said. "We can get something done in fairly short order."

Andrew Restuccia contributed to this report.

U.S. Chamber of Commerce
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https://www.uschamber.com/series/above-the-fold/here-s-how-the-us-chamber-would-rebuild-and-modernize-america-s-infrastructure

Here's How the U.S. Chamber Would Rebuild and Modernize America's Infrastructure

U.S. CHAMBER STAFF

An SUV tows a boat on the freeway in Los Angeles, California. Photo credit: Patrick T. Fallon/Bloomberg.

After decades of inaction, now is the time Washington should move on rebuilding and modernizing America's infrastructure, the head of the U.S. Chamber declared.

"It's time to approach this as a national imperative for long-term growth and competitiveness — not an exercise in parochial politics," said president and CEO Tom Donohue at America's

Infrastructure Summit.

The four-part plan would give the country a 21st century infrastructure system for a 21st century economy.

Let's break it down.

1. A modest increase in the federal fuel fee.

"We need to increase the federal fuel user fee, which hasn't been raised in 25 years," Donohue explained. "Why? It's the simplest, fairest, and most effective way to raise the money we need for roads, bridges, and transit.

The user fee was last raised in 1993. Since then, inflation and vehicle fuel economy have eroded its value. As a result, the federal highway and transit trust fund faces a shortfall of $138 billion over the next decade.

The Chamber plan proposes a five-cent increase over five years. "Increasing the fee by a total of $.25 cents, indexed for inflation and improving fuel economy, would raise $394 billion over the next 10 years," said Donohue.

From a cost-benefit perspective, this makes a lot of sense. The fee increase "would cost the average motorist about $9 a month," Donohue said. But "our badly deteriorating roads are causing approximately $40 a month in increased maintenance and operating costs."

With that additional revenue, we can get better and safer roads, something the public supports. "By a 22-point margin — 50 to 28 — voters support implementing a federal fuel user fee, provided the money will go toward modernizing our infrastructure," said Donohue.

2. Expand financing options, like public/private partnerships, for local communities.

Besides fixing crumbling roads and bridges, we need a way to fund other projects like airports, seaports, waterways, electrical grids, broadband, and more. The Chamber proposes implementing a toolkit of options for supplemental funding and financing, including for the public to partner with the private sector.

"When it comes to private funding, there is huge potential. Between 2005 and 2015, infrastructure equity bonds raised about $350 billion," said Donohue. "Since equity is about 25% of a typical public-private partnership, that $350 billion could support projects worth $1.4 trillion."

The Chamber plan would strengthen and expand federal loan programs to facilitate public-private partnerships. Also state and local governments should leverage public dollars with federally-backed loans.

"Innovative financing mechanisms will allow us to meet today's infrastructure needs and build for the future while financing the costs over the long-term," said Donohue.

3. Streamline the permitting process to get projects off the ground.

But finding the money is only half the battle.

One important barrier keeping us from modernizing America's infrastructure is reforming the permitting process. "Without permitting reform, all the funding the financing you could dream of won't get the job done," Donohue implored. "Projects become seriously delayed or even canceled and their budgets skyrocket due to an uncertain and seemingly endless permitting process."

Instead of long, drawn-out permitting delays, the Chamber proposes permit streamlining, Donohue explains:

> All federal infrastructure approvals should be completed within 2 years. State and local projects benefiting from federal funding or financing should also adhere to a two-year timeline, which should run concurrent to the federal process. And to help streamline permitting and eliminate duplicative reviews, a single lead agency should shepherd a project through the process from start to finish.

4. Develop a skilled workforce to build these projects.

Even if the funding is in place, and the approval process is smooth and certain, infrastructure projects won't be built if there aren't skilled workers available to do it.

"Nearly 80% of construction firms report that they are having a hard time finding qualified workers," said Donohue. "At the same time, by some estimates, every $1 million in additional infrastructure spending, means an additional six to seven construction jobs. Who is going to fill those positions?"

To get more skilled workers, we need more apprenticeship programs, allowing workers to learn on the job. Also, "policymakers should expand the network of sector-based construction partnerships under federal workforce programs. They should also reform and boost support for federal career and technical education programs, like the Perkins Act," Donohue advised.

One thing that must be done is "keep—not kick out—the skilled immigrants who have been legally contributing to our economy for years thanks to programs like DACA and TPS."

This four-part plan is intended to start the discussion. The U.S. Chamber will work with anyone, Donohue said — any party, industry, labor, local and state leaders.

Infrastructure has been an issue neglected for too long. But 2018 can be the year that changes. "This is the next great opportunity to do something significant, something long-lasting, and something long-overdue, for our nation's future. And it will benefit all of us," concluded Donohue.

The *Roadmap to Rebuilding America's Infrastructure* can be found at letsrebuildamerica.com.

About the Author

U.S. Chamber Staff

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