On February 12, the White House released the Trump Administration’s long-awaited proposal to increase infrastructure investment in the United States. The 55-page detailed “Legislative Outline for Rebuilding Infrastructure in America” can be viewed here. The proposal would spend $200 billion in federal funds over ten years to spur at least $1.5 trillion in infrastructure investments with partners at the State, local, Tribal, and private level. Additionally, the proposal focuses on streamlining the permitting process down to two years; investing in unmet rural infrastructure needs; empowering State and local authorities; and advancing workforce training. President Trump hosted a meeting on Feb. 12 with state and local officials regarding his infrastructure proposal.

Importantly, the proposal does not indicate how much money will go to each individual mode of infrastructure. New grant programs would be created for which infrastructure projects would be eligible in not just transportation (highways, mass transit, freight and passenger rail, airports, air traffic control, ports, and inland waterways) but also electrical grid, broadband, hydropower, drinking water, sewer, flood control, and brownfield/Superfund site redevelopment. The proposal also states that funding for these grant programs would be split between multiple federal agencies, but does not say which agency or what mode gets how much money. The proposal also does not have a specific “pay-for.” Instead, the outlays from the $200 billion federal funding commitment are fungible with the rest of the Trump Administration’s mandatory spending and tax proposals, which total $1.89 trillion in deficit reduction over 10 years. Congress may feel the need to attach a specific pay-for to the legislation, but the Trump Administration does not.

The White House expects at least six House committees and five Senate committees to be involved in the infrastructure push. Congress will now have ten months to draft, mark up, and pass legislation in order to move forward with enacting President Trump’s proposal prior to the end of the 115th Congress on January 3, 2019.
The $200 billion in federal money for the infrastructure proposal, over ten years, would be divided up as follows:

**Funding for Trump Infrastructure Plan**
Allocation of appropriation by program in billions

- Infrastructure Incentives: $100
- Rural Infrastructure: $50
- Transformative Projects: $20
- Federal Credit Programs: $14
- Federal Capital Financing: $10
- Private Activity Bonds: $6
$100 billion for an Infrastructure Incentives Program

$100 billion would be distributed between the U.S. Department of Transportation (DOT), the U.S. Army Corps of Engineers (Corps), and the U.S. Environmental Protection Agency (EPA) to carry out an Infrastructure Incentives Program to maximize investment in infrastructure and whose purposes include:

- Attracting significant new, non-Federal revenue streams dedicated to infrastructure investments;
- Creating significant leverage of Federal infrastructure investments;
- Assuring long-term performance of capital infrastructure investments;
- Modernizing infrastructure project delivery practices;
- Increasing economic growth;
- Spurring the development and use of new and rapidly evolving infrastructure technology to improve cost and improve performance; and
- Ensuring Federal grant recipients are accountable for achieving specific, measurable milestones.

The proposal does not specify how much of this money, specifically, would be allocated between DOT, the Corps, and the EPA. The Program would provide support to wide-ranging classes of assets, including the following governmental infrastructure: surface transportation and airports, passenger rail, ports and waterways, flood control, water supply, hydropower, water resources, drinking water facilities, wastewater facilities, stormwater facilities, and Brownfield and Superfund sites. Other federal agencies could petition the DOT, Corps, and EPA for some of this money.

Potential project sponsors could then apply to their lead federal agency for a grant, which will be judged primarily on how much new non-federal revenue can be brought to the table. The plan spells out a fixed weighting system with some factors that do not require human judgment but some that do, making this program still discretionary, where the Trump Administration picks winners and losers. State and local sponsors who enacted a tax increase for infrastructure in the three years prior to February 2018 would get some credit for those revenues on a not-spelled-out sliding scale. After application of the overly complicated weighting system, the amount of an incentive grant would be capped at 20 percent of “new revenue” and could be combined with the face value of a federal loan or a Private Activity Bond (PAB).

$50 billion for a Rural Infrastructure Program

$50 billion would be allocated for grants to rural areas that lack the tax base or the passenger/freight throughput to utilize much financial leveraging. Under this program, “[s]tates would be incentivized to partner with local and private investments for completion and operation
of rural infrastructure projects.” Eligible asset classes under the Rural Infrastructure Program include:

- **Transportation**: roads, bridges, public transit, rail, airports, and maritime and inland waterway ports;
- **Broadband** (and other high-speed data and communication conduits);
- **Water and Waste**: drinking water, wastewater, stormwater, land revitalization, and Brownfields;
- **Power and Electric**: governmental generation, transmission and distribution facilities; and
- **Water Resources**: flood risk management, water supply, and waterways.

80 percent of the $50 billion (i.e., $40 billion) would be given out as block grants to State governors via a rural population/rural road-miles formula that is not specifically laid out in the proposal. The governors, in consultation with a designated federal agency and State directors of rural development, would have discretion to choose individual investments to respond to the unique rural needs of their States. The other 20 percent (i.e., $10 billion) would go toward “rural performance grants” selected by the federal government. Funds made available 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. States that could prove good stewardship of their block grants and leveraging of funding from existing federal programs would have an advantage in the performance grant selections.

**$20 billion for a Transformative Projects Program**

$20 billion would be allocated to a new Transformative Projects Program, led by the Commerce Department, which would select “bold, innovative, and transformative infrastructure projects that could dramatically improve infrastructure.” Funding under this program would be awarded on a competitive basis to projects that are likely to be commercially viable, but that possess unique technical and risk characteristics that deter private sector investment. The Program would support projects that, with federal support, are capable of generating revenue, would provide net public benefits, and would have a significant positive impact on the Nation, a region, State, or metropolitan area. Infrastructure sectors covered by this Program could include, but not be limited to, the transportation, clean water, drinking water, energy, commercial space, and broadband sectors.

The purposes of the Program include:

- Significantly improving performance, from the perspective of availability, safety, reliability, frequency, and service speed;
- Substantially reducing user costs for services;
- Introducing new types of services; and
- Improving services based on other related metrics.
Funding under this Program could be used for:

- Up to 30 percent of eligible costs under the demonstration track;
- Up to 50 percent of eligible costs under the project planning track; and
- Up to 80 percent of eligible costs under the capital construction track.

$14 billion for Existing Federal Credit Programs

$14 billion would be made available for the expansion of existing credit programs (TIFIA, WIFIA, RRIF, RUS) to address a broader range of infrastructure needs, “giving State and local governments increased opportunity to finance large-scale infrastructure projects under terms that are more advantageous than in the financial market. All funds remaining in credit programs ten years after enactment would be diverted to the Federal capital financing fund, to allow for efficient acquisition of real property.” The proposal does not specifically say how much money goes to each of the credit programs. The proposal does expand the eligibility for what the four programs’ monies can be used for:

- **Transportation Infrastructure Finance and Innovation Act (TIFIA):** TIFIA currently limits project eligibility to those that are eligible for federal assistance through existing surface transportation programs (highway projects and transit capital projects). The proposal expands TIFIA eligibility to include non-federal waterways, ports, and airport projects (such as renovated or new passenger terminals, runways, and related facilities).

- **Water Infrastructure Finance and Innovation Act (WIFIA):** the proposal:
  - Expands WIFIA’s authorization to include non-federal flood mitigation, hurricane and storm damage reduction, navigation, environmental restoration, and restoration of aquatic ecosystems, in order to “allow EPA to service the full water cycle and provide one streamlined and integrated lending process to project sponsors”;
  - Eliminates the requirement under WIFIA for borrowers to be community water systems, which “would allow drinking water providers and other public authorities to participate in WIFIA and the Drinking Water State Revolving Fund (DWSRF) programs”;
  - Authorizes Brownfield rehabilitation and cleanup of Superfund sites under WIFIA;
  - Reduces rating agency opinions from two to one for all borrowers;
  - Provides EPA authority to waive the springing lien in certain lending situations;
  - Increases the base level of administrative funding authorized to ensure EPA has sufficient funding to operate the WIFIA program;
  - Removes the restriction on the ability to reimburse costs incurred prior to loan closing under WIFIA;
  - Expands the WIFIA program to authorize eligibility for credit assistance for water system acquisitions and restructurings “to allow for acquisitions and restructurings [that] would enable WIFIA as a mechanism for consolidation in the water industry”; and
Expands WIFIA authorization to include Federal deauthorized water resource projects.

**Railroad Rehabilitation and Improvement Financing (RRIF):** the proposal subsidizes RRIF for short-line freight and passenger rail, since the current RRIF law does not provide specific subsidies or incentives for either short-line freight rail or passenger rail projects. Amending the law to provide a subsidy to cover the RRIF credit risk premium for short-line freight and passenger rail project sponsors “would incentivize more project sponsors to pursue RRIF credit assistance for projects. This, in turn, would leverage more State and local funds for rail infrastructure development.”

**Department of Agriculture’s Rural Utilities Service (RUS):** the proposal makes additional budget authority available to the USDA for loan subsidy costs under RUS lending programs. Specific funds set aside from the appropriated subsidy would be made available to the USDA.

$10 billion for Federal Capital Financing Fund

$10 billion would be provided to endow a federal Capital Financing Fund to allow the General Services Administration to make big real estate purchases all at once without overly inconveniencing the House and Senate Appropriations Committees, which currently have to pay for major GSA buys out of their annual budget allotment all at once, affecting other programs competing for the same dollars. Purchasing agencies would then be required to repay the fund in 15 equal annual amounts using discretionary appropriations. A revolving fund would allow the appropriators, in essence, to borrow money from the mandatory budget and then pay it back over several years.

$6 Billion for Private Activity Bonds (PABs)

$6 billion represents the estimated cost to the Treasury over ten years of the lost tax revenue because of the increased issuance of private activity bonds (PABs) paying tax-exempt interest that will be issued under the more expansive PAB rules proposed in the plan. The proposal creates flexibility and broadens the eligibility to facilitate the use of PABs to “leverage financing for public-purpose infrastructure projects. These provisions also would allow for greater Federal leverage and therefore more efficient infrastructure improvements”:

- **Require public attributes for public infrastructure projects:** Requiring public infrastructure projects to have several public attributes would “ensure the public nature of eligible infrastructure”;

- **Broaden eligibility of PABs:** Current law includes a limited list of exempt facilities eligible to be financed with tax-exempt bonds. The revised parameters under the proposal “would allow longer-term private leases and concession arrangements for projects
financed with PABs.” The proposal would expand and modify eligible exempt facilities for PABs to include the following public infrastructure projects:

- **Existing categories:**
  - airports (existing category)
  - docks, wharves, maritime and inland waterway ports, and waterway infrastructure, including dredging and navigation improvements (expanded existing category)
  - mass commuting facilities (existing category)
  - facilities for the furnishing of water (existing category)
  - sewage facilities (existing category)
  - solid waste disposal facilities (existing category)

- **Modified categories:**
  - qualified surface transportation facilities, including roads, bridges, tunnels, passenger railroads, surface freight transfer facilities, and other facilities that are qualified projects under TIFIA (existing category with modified description)
  - hydroelectric power generating facilities (expanded existing category beyond environmental enhancements to include new construction)
  - flood control and stormwater facilities (new category)
  - rural broadband service facilities (new category)
  - environmental remediation costs on Brownfield and Superfund sites (new category)

- **Eliminate the Alternative Minimum Tax preference on PABs:** Eliminating the AMT preference on PABs “would lower borrowing costs and increase the utilization of PABs.”

- **Remove State volume caps and transportation volume caps on PABs for public purpose infrastructure projects and expand eligibility to ports and airports:** Amending existing law to remove the population-based volume cap applicable to PABs for public purpose infrastructure projects of the types covered by the proposal that have the requisite public attributes “would level the playing field between public and private service providers.” Additionally, amending the law to eliminate the nationwide cap “would provide certainty that PABs would be available to a project sponsor as it developed and evaluated a project’s financial strategy. This provision would apply only if a State volume cap did not already apply.”

- **Provide change-of-use provisions to preserve the tax-exempt status of governmental bonds:** Adding change-of-use curative provisions to protect the tax-exempt status of governmental bonds in transactions involving private business use of projects financed with governmental bonds that otherwise would violate private business use limits on those bonds (e.g., private leases) would eliminate this private sector barrier. One curative action “would allow alternative business use of the public project in a manner that would qualify as an infrastructure project eligible for a new issuance of PABs under the
proposal.” Another curative action “would allow recycling of an amount equal to the total present value of a private lease of any project financed with governmental bonds into expenditures for governmental use within two years of the lease.”

- **Provide change-of-use cures for private leasing of projects to ensure preservation of tax exemption for infrastructure projects:** Providing for tailored change-of-use remedial actions that preserve the tax exemption status upon private leasing of projects subject to outstanding tax-exempt government bonds or allowing “recycling” the total present value of the private lease payments into public and governmental uses within two years “would ensure the assets retain the tax-exempt status of the associated debt obligations.”

### Public Lands Infrastructure

In addition to the six major funding components, the proposal also includes public lands provisions that “would enable the additional revenues generated from energy development on public lands to pay for capital and maintenance needs of public lands infrastructure.” To address the infrastructure needs associated with Department of the Interior (DOI) backlogs, the proposal would establish a new infrastructure fund in the U.S. Treasury entitled the **Interior Maintenance Fund** comprised of additional revenues from the amounts due and payable to the U.S. from mineral and energy development on Federal lands and waters. Currently, receipts generated from mineral and energy development on public lands are not available for capital and maintenance of public infrastructure. The proposal “allows half of additional receipts generated by expanded federal energy development to be deposited into the Fund [to] help the DOI address this backlog. Such receipts would be deposited into the Fund until the cumulative amount deposited had reached $18 billion.”

### Disposition of Federal Real Property

The proposal also includes provisions to “establish authority to allow for the disposal of Federal assets to improve the allocation of economic resources in infrastructure investment”:

- **Codify Accelerated Depreciation for the Disposition of Non-Federal Assets with a Federal Interest Due to Grant Receipt:** the proposal would codify [Executive Order 12803](https://www.gpo.gov/fdsys/pkg/FR-1992-04-30/html/92-9203.htm), signed by President George H.W. Bush on April 30, 1992, to allow accelerated depreciation for the disposition of non-Federal assets and application of those rules to any dispositions undertaken since issuance of the E.O. Directing the agencies to provide guidance on implementation also “would provide clarity for utilities and municipalities when divesting or privatizing assets.”

- **Streamline and Improve the Federal Real Property Disposal Process:** Amending current law to allow agencies to move property to market more quickly and retain the gross proceeds of sale “would allow the Government to be more nimble and lower costs.” The proposal would:
- Allow the Government to take assets no longer needed by any Federal agency directly to market;
- Retain proceeds for reinvestment in agency real property requirements;
- Expand the allowable uses of the General Services Administration (GSA) Disposal Fund; and
- Eliminate the requirement to transfer funds above the identified threshold to the Land and Water Conservation Fund (LWCF).

- Authorize Federal Divestiture of Assets that Would Be Better Managed by State, Local, or Private Entities: Providing Federal agencies authority to divest of Federal assets where the agencies can demonstrate an increase in value from the sale “would optimize the taxpayer value for Federal assets. To utilize this authority, an agency would delineate how proceeds would be spent and identify appropriate conditions under which sales would be made. An agency also would conduct a study or analysis to show the increase in value from divestiture.” Examples of assets for potential divestiture include:
  - Southwestern Power Administration’s transmission assets;
  - Western Area Power Administration’s transmission assets;
  - Ronald Reagan Washington National and Dulles International Airports;
  - George Washington and Baltimore Washington Parkways;
  - Tennessee Valley Authority transmission assets;
  - Bonneville Power Administration’s transmission assets; and
  - Washington Aqueduct.

Additional Provisions for Infrastructure Improvements

The infrastructure plan proposes a wide variety of changes to the laws governing existing infrastructure programs, many of which are not new and have some degree of support in Congress and with stakeholder groups. These include changes to transportation, water infrastructure, veterans affairs, and land revitalization (Brownfields/Superfund reform) programs.

Transportation

The proposal includes provisions that “would incentivize and remove barriers to the development and improvement of transportation infrastructure in our Nation. These provisions would encourage and incentivize alternative project delivery, including State, tribal, local and private investment, in transportation; streamline Federal procedures for delivering transportation
projects; and decrease barriers and reduce unnecessary Federal oversight to facilitate timely delivery of projects.”

- **Financing:**
  - *Provide States Tolling Flexibility:* The proposal would provide States flexibility to toll on Interstates and reinvest toll revenues in infrastructure, and reconcile the grandfathered restrictions on use of highway toll revenues with current law.
  - *Extend Streamlined Passenger Facility Charge Process from Non-hub Airports to Small Hub Airports:* Extending the streamlined PFC process to small hub airports “would allow these airports to more readily fund needed development as well as reduce delays and unnecessary requirements in the PFC process.”
  - *Provide States Flexibility to Commercialize Interstate Rest Areas:* Amending current law to provide States flexibility to commercialize Interstate rest areas, and requiring the revenues to be reinvested in the corridor in which they are generated, “would support new infrastructure investment.”
  - *Provide New Flexibility for Transportation Projects with De Minimis Federal Share:* Amending current law to provide targeted flexibility pertaining to the application of federal requirements where the project funding is primarily non-federal and the federal share is minimal “would increase investments in infrastructure and reduce project delays and costs.”
  - *Expand Qualified Credit Assistance and Other Capabilities for State Infrastructure Banks:* Providing incentives to use SIBs “could encourage the use of SIBs. Expanding the legal capabilities of SIBs, in addition to direct appropriations, would allow SIBs to take responsibility for infrastructure funding in an effective manner that may not be possible for the Federal Government, particularly for rural projects or projects of smaller total cost.”

- **Highways:**
  - *Authorize Federal Land Management Agencies to Use Contracting Methods Available to States:* Expanding to FLMAs all Title 23 contracting methods (for projects funded with Title 23 funds) “would enable more efficient delivery of these projects.”
  - *Raise the Cost Threshold for Major Project Requirements to $1 Billion:* Amending the law to raise the threshold for major projects from $500 million to $1 billion “would remove unnecessary oversight requirements from smaller, less complex projects that are routinely managed by FHWA and State DOTs.”
  - *Authorize Utility Relocation to Take Place Prior to NEPA Completion:* Amending the law to allow utility relocation to take place prior to National Environmental
Policy Act (NEPA) completion “would streamline the building process, reduce overall construction time, and lower costs.”

- **Authorize Repayment of Federal Investment to Eliminate Perpetual Application of Federal Requirements**: Amending the law to provide general authority for States to repay the Federal investment in a facility “would provide States with the ability to obtain value from their assets and flexibility in how their highways and bridges are operated and maintained.”

- **Provide Small Highway Projects with Relief for the Same Federal Requirements as Major Projects**: Amending the 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.”

- **Transit**:
  - **Require Value Capture Financing as Condition of Receipt of Transit Funds for Capital Investment Grants**: Amending the law to include value capture financing as a prerequisite for Section 5309 Capital Investment (Discretionary) Grants, excluding Small Starts projects, “would increase resources available for transit capital projects and decrease dependence on Federal grant programs for continued development.”
  - **Eliminate Constraints on Use of Public-Private and Public-Public Partnerships in Transit**: Current law “impedes the greater use of public-private and public-public partnerships in transit capital projects. [...] Eliminating these constraints would encourage greater investment in transit capital projects.”
  - **Codify Expedited Project Delivery for Capital Investment Grants Pilot Program**: Currently, the Federal Transit Administration’s (FTA) framework for public-private partnerships is a non-codified pilot program limiting the number of projects eligible to participate and capping the Federal share at 25 percent. Codifying the pilot program, ensuring it is allowable for all Capital Investment Grant projects and not just on a pilot basis, and increasing the Federal share to 50 percent “would attract increased private investment and further expedite project delivery.”

- **Rail**:
  - **Apply FAST Act Streamlining Provisions to Rail Projects and Shorten the Statute of Limitations**: Amending the law to clarify that all rail projects, regardless of lead Federal agency, can take advantage of FAST Act streamlining provisions “would help expedite rail project delivery.”
• **Airports:**
  
  o *Create More Efficient Federal Aviation Administration Oversight of Non-aviation Development Activities at Airports:* Amending the law to limit FAA approval and oversight of non-aviation development activities at airports “would create more efficient FAA oversight of critical airfield infrastructure.”

  o *Reduce Barriers to Alternative Project Delivery for Airports:* Removing the limitation on the number and size of airports that can participate in the existing pilot program and decreasing the percentage of airlines needed to approve privatization from 65 percent to a majority vote” would reduce barriers to alternative project delivery for airports and provide more flexibility for carriers to approve privatization.”

  o *Clarify Authority for Incentive Payments under the Airport Improvement Program:* Clarifying the authority under the AIP to permit additional financial incentives, along with profit margin, for contractors “would increase work efficiency and reduce project completion times.”

  o *Move Oversight of AIP Funds to Post-expenditure Audits:* Revising the statutory requirements for AIP to shift FAA oversight from grant applications to post-expenditure audits “would expedite conveyance of funds to sponsors.”

**Water Infrastructure**

The proposal includes water infrastructure provisions that “would incentivize the development of effective and efficient water infrastructure, outcome-based procurement, and full life-cycle asset management to improve water infrastructure. These changes would provide greater flexibilities for the Corps and its non-Federal partners to use available Federal and non-Federal funds, generate new revenues and retain certain revenues in support of project requirements, make greater use of contributed funds, and allow for innovative use of contracting tools.”

• **Financing:**

  o *Authorize Clean Water Revolving Fund for Privately Owned Public-purpose Treatment Works:* Authorizes the CWSRF to provide financial assistance to publicly owned and privately owned public-purpose treatment works “would make more funding available for treatment works.”

  o *Provide New Flexibility for Water Projects with De Minimis Federal Share:* Amending the law to provide targeted flexibility pertaining to the application of Federal requirements where the project funding is primarily non-Federal and the Federal share is minimal “would increase investments in water infrastructure and reduce project delays and costs.”
• Water Programs:
  o *Provide EPA Infrastructure Programs with “SEP-15” Authorizing Language:* The proposal would provide “the EPA Administrator authority to encourage tests and experimentation in the water projects development process to permit the Administrator to explore alternative and innovative approaches to the overall project development process and to develop more effective approaches to project planning, project development, finance, design, construction, maintenance, and operations.”
  o *Apply Identical Regulatory Requirements to Privately Owned Public-purpose Treatment Works and Publicly Owned Treatment Works:* Modifying the Clean Water Act to ensure identical requirements apply to privately owned public-purpose treatment works and privately owned treatment works “would provide a level playing field for all service providers.”

• Inland Waterways:
  o *Expand Authority Related to Non-Federal Construction and Operation of Inland Waterways Projects:* Authorizing the Secretary of the Army to execute agreements with non-federal public or private entities to use Inland Waterways Trust Fund (IWTF) and General Fund (GF) funds for construction, repair, rehabilitation, maintenance and operation activities, and the ability to enter into third party contracts, concessions, and operating agreements, “would enable greater innovation and efficiency by allowing non-federal entities a greater role in performing work on these projects.”

• Water Infrastructure Resources:
  o *Authorize User Fee Collection and Retention under the WRRDA Section 5014 Pilot Program and Recreation User Fees for Operation and Maintenance of Public Facilities:* Authorizing the federal government and third party service providers to impose and retain fees under Section 5014 of WRRDA 2014 to use or defray costs associated with carrying out a project “would enable effective infrastructure partnerships. This proposal would limit application to no more than ten projects and would specify that the respective non-federal interests indemnify and hold the federal government harmless as a result of non-federal actions, including that the federal government assumes no responsibility for costs of said non-federal actions. Amending the law to provide the Corps with the authority to retain recreation user fees generated at Corps-managed recreation sites and facilities would enable the Corps to address the backlog of infrastructure, public safety and visitor use management needs at sites where user fees are collected.”
  o *Expand U.S. Army Corps of Engineers’ Authority to Engage in Long-term Contracts:* Extending the contract period to allow the Secretary of the Army to
enter into contracts for a period up to 50 years “would enable the Corps enter into long-term contracts that encompass the full life-cycle management of infrastructure assets in the Section 5014 program. This amendment would specify that the respective non-federal interests indemnify and hold the federal government harmless as a result of non-federal actions, including that the federal government assumes no responsibility for costs of said non-federal actions.”

- **Authorize Commercial Operation and Maintenance Activities at Hydropower Facilities:** Amending the law to restore the authority of the Secretary of the Army to determine whether operation and maintenance functions at hydropower facilities on Corps projects are commercial activities and appropriate for performance by non-federal entities “would increase the opportunity for open competition and lead to more efficient operations and maintenance.”

- **Deauthorize Certain Federal Civil Works Projects:** Amending the law to establish a streamlined deauthorization process that allows for those Corps projects approaching the end of their service life and for those projects operated and maintained by non-Federal interests that do not require Federal oversight “would release Federal and non-Federal resources to be used for other purposes.”

- **Expand Authority for Acceptance of Contributed and Advanced Funds:** Amending the law to expand authority for the acceptance of contributed funds even if no federal funds have been appropriated for the authorized project, changing individual notifications to an annual reporting requirement, and expanding applicability of advanced funds authority to all authorized water resources development studies and projects “would increase non-Federal spending and expedite project execution.”

- **Amend Water Resources Development Act to Allow for Waiver of Cost Limits:** Amending the law to allow the maximum total cost limitation to be waived upon the recommendation of the Secretary of the Army “would provide flexibility to avoid delays in delivering infrastructure projects.”

### Veterans Affairs

The proposal includes provisions to “provide flexibility to the Department of Veterans Affairs (VA) to use the value of its existing assets to provide our Nation’s veterans the state-of-the-art facilities they deserve. The VA has a nationwide physical footprint that includes aging facilities. While the physical assets owned by the VA are growing outdated, the underlying property values continue to increase.”
• Provide VA Real Property Flexibilities:
  
  o Authorize VA to retain proceeds from sales of properties and exchange existing facilities for construction of new facilities.
  
  o Authorize pilot program for VA to exchange land or facilities for lease of space in multi-tenant facilities.
  
  o Increase the threshold above which VA is require to obtain congressional authorization for leases.

Land Revitalization (Brownfield/Superfund Program)

The proposal would “expand funding eligibility for revitalization projects and establish tools to manage and address legal and financial risks. These provisions would incentivize the development and dissemination of strong infrastructure risk mitigation and asset management standards to accelerate the desired transformational shifts for the public good—increases in revenue generation, risk allocation to the parties best equipped to mitigate concerns, and greater attention to maintenance and innovative design.”

• Create a Superfund Revolving Loan Fund and Grant Program and Authorize National Priorities List Sites to be Eligible for Brownfield Grants: Amending the Small Business Liability Relief and Brownfields Revitalization Act to include a Superfund revolving fund “would facilitate new investment into Superfund cleanup and reuse and would provide non-liable third parties a low interest source of funds to perform removals, remedial design, remedial action and long-term stewardship.” Amending the law to allow NPL sites or portions thereof to be eligible for Brownfield grants at EPA’s discretion “would make funds available to eligible entities to conduct assessments, complete cleanups, and implement remedy enhancements to accommodate development and perform long-term stewardship.”

• Provide Liability Relief for States and Municipalities Acquiring Contaminated Property through Actions as Sovereign Governments: Clarifying and expanding the current liability exemption to afford State and local governments an exemption from liability for all property acquisitions undertaken by virtue of their sovereign function “would encourage these entities to become full partners in the cleanup and reuse of Superfund sites. Additionally, these changes would allow more State and local governments to be eligible for grants and to acquire property without fear of liability.”

• Provide EPA Express Settlement Authority to Enter into Administrative Agreements: Amending the law to provide EPA with express settlement authority to enter into
administrative agreements with Bona Fide Prospective Purchasers (BFPPs) and other statutorily protected parties and to enter into administrative agreements with any party to perform remedial action in appropriate circumstances (e.g., partial, early remedial action) “would promote and expedite the cleanup and reuse of Superfund sites.”

- **Integrate Cleanup, Infrastructure and Long-term Stewardship Needs by Creating Flexibility in Funding and Execution Requirements**: Removing certain restrictions for infrastructure projects that could easily be integrated with the cleanup work and funded by a third party, “would enable EPA to better incorporate infrastructure needs (e.g., pipelines, power lines) into cleanup design and implementation and would promote site reuse.”

**Infrastructure Permitting Improvement**

The proposal includes numerous provisions related to infrastructure permitting improvements, and listed as four categories: (1) federal role; (2) delegation to states; (3) pilot programs; and (4) judicial reform.

**Federal Role**

The proposal includes provisions to “protect the environment while at the same time delivering projects in a less costly and more time effective manner by: creating a new, expedited structure for environmental reviews; delegating more decision-making to States and enhancing coordination between State and Federal reviews; and authorizing pilot programs through which agencies may experiment with innovative approaches to environmental reviews while enhancing environmental protections.”

- **Establishing a “One Agency, One Decision” Environmental Review Structure**:
  - *Protect the Environment through a Structure that Establishes Firm Deadlines to Complete Environmental Reviews and Permits*: The proposal “would establish a firm deadline of 21 months for lead agencies to complete their environmental reviews through the issuance of a Finding of No Significant Impact (FONSI) or Record of Decision (ROD), as appropriate. Additionally, the proposal would establish a firm deadline of 3 months after the lead agency’s FONSI or ROD for Federal agencies to make decisions with respect to the necessary permits.”

- **Reducing Inefficiencies in Environmental Reviews**:
- **Require a Single Environmental Review Document and a Single Record of Decision Coordinated by the Lead Agency**: Requiring the lead federal agency under NEPA to develop a single federal environmental review document to be utilized by all agencies, and a single ROD to be signed by the lead Federal agency and all cooperating agencies, “would reduce duplication and create a more efficient, timely review process.”

- **Clarify that Alternatives Outside of the Scope of an Agency’s Authority or Applicant’s Capability Are Not Feasible Alternatives**: Clarifying that alternatives outside the scope of an agency’s authority or an applicant’s capability are not feasible alternatives for purposes of NEPA “would allow agencies and applicants to focus their resources and analyses on those alternatives that are actually legally, technically, and economically feasible.”

- **Direct the Council on Environmental Quality to Issue Regulations to Streamline the NEPA Process**: Requiring CEQ to revise its regulations to streamline NEPA would reduce the time and costs associated with the NEPA process and “would increase efficiency, predictability, and transparency in environmental reviews.”

- **Eliminate Redundancy in EPA Reviews of Environmental Impact Statements under Section 309 of the Clean Air Act**: Eliminating EPA’s additional review and assessment of Environmental Impact Statements (EISs) “would remove duplication and make the environmental review process more efficient.”

- **Focus the Scope of Federal Resource Agency NEPA Analysis on Areas of Special Expertise or Jurisdiction**: Focusing federal resource agencies’ authority to comment on portions of the NEPA analysis that are relevant to their areas of special expertise or jurisdiction “would maximize the effectiveness of agency reviews and streamline project delivery.”

- **Reduce Duplication and Increase Flexibility in Establishing and Using Categorical Exclusions**: Authorizing any federal agency to use a Categorical Exclusion (CE) that has been established by another federal agency and identifying documented CEs that can be moved to an agency’s undocumented CE list without undergoing the CE substantiation and approval process “would reduce duplication and unnecessary environmental analysis for actions that do not create a significant environmental impact.”

- **More Effectively Address Environmental Impacts by Allowing Design-Build Contractors for Highway Projects to Conduct Final Design Activities before NEPA Is Complete**: Allowing design-build contractors to conduct final design activities “would facilitate better environmental reviews in conjunction with the design of projects and would facilitate more efficient and more effective efforts to address environmental impacts.”
- **Curtail Costs by Allowing for Advance Acquisition and Preservation of Rail Rights-of-Way before NEPA Is Complete:** Allowing the advance property acquisition and preservation of rail corridors for rail projects “would help control costs and improve project delivery.”

- **Enhance Integration of Transportation Planning and NEPA by Removing an Unneeded Concurrence Point for Using Transportation Planning Documents and Decisions in NEPA:** Eliminating the requirement for concurrence by a cooperating agency “would reduce duplication and delay, and would facilitate the integration of the NEPA process with the transportation planning process.”

- **Remove Duplication in the Review Process for Mitigation Banking by Eliminating the Interagency Review Team:** Removing the second review “would enhance the efficiency of the mitigation bank approval time frames.”

- **Authorize All Lead Federal Agencies for Infrastructure Projects to Opt into Highway and Transit Streamlining Procedures:** Amending the current law to allow other lead federal agencies to opt into these provisions “could make environmental reviews on other infrastructure projects more efficient.”

- **Increase Efficiency by Expediting Certain Small Telecommunications Equipment in NEPA and the National Historic Preservation Act:** Amending the law to expedite small cells and Wi-Fi attachments in NEPA and the NHPA “would eliminate unnecessary reviews without adversely affecting the environment.”

- **Create Incentives for Enhanced Mitigation:** Establishing procedures that expedite environmental or permitting reviews for projects that enhance the environment through mitigation, design, or other means “would provide incentives for project sponsors to propose more environmentally beneficial projects. This would streamline the environmental and permitting review process for those projects that demonstrate an improvement to the environment.”

- **Modify the Federal Power Act and Other Laws to Prohibit the Ability of Federal Agencies to Intervene in FERC Proceedings:** Modifying the Federal Power Act and other laws to require Federal agencies, upon request, to participate as a cooperating agency to a FERC NEPA review “would ensure that agencies fully participate in the preparation of FERC NEPA documents.”

- **Authorize Federal Agencies to Accept Funding from Non-Federal Entities to Support Environmental and Permitting Reviews:** Amending the law to provide broader authority for federal agencies to accept funds from non-federal entities to support review of permit applications and other environmental documents “would provide additional resources to streamline project delivery and would help defray the costs of the environmental review.”
Protecting Clean Water with Greater Efficiency:

- **Eliminate Redundancy, Duplication, and Inconsistency in the Application of Clean Water Provisions:**
  - Authorize Federal agencies to select and use nationwide permits without additional Corps review: Eliminating the additional Corps review and allowing Federal agencies to move forward on NWP projects, subject to permit conditions, “would streamline the process and allow the Corps to focus on projects that do not qualify for NWPs, which have greater environmental impacts.”
  - Consolidate authority to make jurisdictional determinations for 404 permits: Establishing the Secretary of the Army’s authority to make jurisdictional determinations under the Clean Water Act “would eliminate duplication of work and streamline permit decisions.”
  - Eliminate duplicative oversight by removing EPA’s authority to veto a 404 permit under Section 404(c): Removing EPA’s authority to veto a 404 permit “would make the permitting process more efficient and predictable.”
  - Allow use of one NEPA document for both Section 404 and Section 408 actions: For actions where both Sections 404 and 408 apply, two independent environmental reviews are required, “creating unnecessary duplication of work and delays in issuing permitting decisions.”
  - Eliminate duplication in environmental documentation for authorized Corps projects pursued by non-Federal interests: Allowing the non-federal interest to use the completed Corps environmental compliance documentation and decision (e.g., ROD or FONSI) as the environmental review for the federal permit decision “would reduce duplication without removing environmental protections.”

- Clarify Time Frames and Reduce Delays for Section 401 Certification Decisions: Amending the Clean Water Act to change the time period for issuance of a State 401 Certification by addressing the time periods for making a completeness determination and the time for a State decision “would reduce delays.”

- Stabilize Utility Investments by Lengthening the Term of a National Pollutant Discharge Elimination System Permit and Providing for Automatic Renewals: Lengthening the permit time limit from five years to fifteen years and providing for automatic renewals of such permits, if the water quality needs do not require more stringent permit limits, “would bring more stability to public and private investments in investor-owned and publicly owned utilities.”
Reducing Inefficiencies in the Magnuson Stevens Act:
- **Require Timelines to be Met under the Magnuson Stevens Act or Allow Agency to Proceed with Action**: Requiring the National Marine Fisheries Service (NMFS) to respond to all consultations within 30 days in all cases (unless a 30-day request for extension is received from NMFS and approved by the action agency) “would improve time frames and eliminate delays. If no response were received from NMFS within the required time frame, the action agency could then move to final agency action.”

Reducing Inefficiencies in Protecting Clean Air:
- **Eliminate Confusion by Clarifying that Metropolitan Planning Organizations Need only Conform to the Most Recent National Ambient Air Quality Standard**: Amending the Clean Air Act to clarify that conformity requirements apply only to the latest National Ambient Air Quality Standards (NAAQS) for the same pollutant would avoid this confusion and reduce legal challenges.
- **Reduce Uncertainty by Establishing Motor Vehicle Emissions Budgets before Requiring Initial Transportation Conformity Determinations for Newly Designated Areas**: Allowing transportation conformity to apply one year after EPA approves or finds the emissions budgets adequate for conformity purposes “would eliminate confusion and give MPOs certainty in meeting Federal requirements.”

Reducing Inefficiencies in Preserving Publicly Owned Land and Historic Properties:
- **Remove Overlapping DOI, USDA, and HUD Reviews from Individual Section 4(f) Evaluations**: Removing DOI, USDA, and HUD responsibilities to review individual Section 4(f) determinations “would reduce delays in the project development process while not reducing protections to parklands and historic sites.”
- **Eliminate Duplicative Reviews of Historic Property Impacts for Transportation Projects**: Specifying that an action taken pursuant to a Section 106 agreement does not constitute a “use” under Section 4(f), and therefore “would not require a different analysis, would reduce duplication and delay, without reducing protections for the historic properties.”
- **Eliminate Redundancy in Conversion Requirements When Land Purchased with Land and Water Conservation Fund Money Is Impacted**: Eliminating the requirement for the NPS approval in identifying and procuring replacement property “would eliminate duplicative work and speed project delivery (including where authority has been delegated to States).”
Reduce Uncertainty by Establishing Reclamation Title Transfer Authorization: Establishing new transfer authority in the Bureau of Reclamation “would streamline the process and reduce delays for executing title transfers. This also would facilitate non-Federal partners’ ability to seek private financing for major rehabilitation and replacement needs. Additionally, this would give non-Federal partners greater flexibility in setting operating criteria.”

Reduce Uncertainty by Authorizing the Secretary of the Interior to Review and Approve Permits for Pipelines Crossing Lands Administered by the National Parks Service: Authorizing the Secretary of the Interior to approve rights-of-way for pipelines and facilities necessary for the production of energy across NPS-administered land in a manner identical to that for other facilities “would reduce the delays and uncertainties caused by requiring congressional approval.”

Delegation to States

The proposal includes provisions to “streamline and expand existing procedures to entrust environmental review and permitting decisions to States. These provisions also would help avoid duplication by facilitating reliance on State and local reviews and documentation.”

- Expand Department of Transportation NEPA Assignment Program to Other Agencies: Authorizing other agencies to assign NEPA responsibilities to States “would extend the benefit of this program to other types of infrastructure agencies and projects, under requirements similar to those in the DOT NEPA assignment program.”

- Allow States to Assume FHWA Responsibilities for Approval of Right-of-Way Acquisitions: Providing States with authority to assume some, or all, of the Federal Highway Administration’s (FHWA) responsibilities for approval of right-of-way acquisitions (subject to the same legal protections that currently apply to the right-of-way acquisition process) would eliminate these delays. DOT would retain the right to terminate a delegation if a State improperly carries out its responsibilities for approving right-of-way acquisitions.”

- Broaden NEPA Assignment Program to Include Other Determinations: Allowing DOT to assign, and States to assume, project-level transportation conformity determinations and determinations regarding flood plain protections and noise policies as part of the NEPA assignment program “would create a more efficient NEPA assignment program. It also would provide an incentive for additional States to participate in the NEPA assignment program. Consistent with the requirements of the NEPA assignment program, States would need to demonstrate the technical capacity to make these determinations.”
Pilot Programs

The proposal includes provisions to “create pilot programs to experiment with new ways to address environmental impacts while delivering projects in a more timely and predictable way.”

- **Performance-Based Pilot:** This pilot program would experiment with using environmental performance measures instead of an environmental review process to address environmental impacts of an infrastructure project. Up to 10 projects would be selected to participate in the pilot based on project size, national or regional significance, and opportunities for environmental enhancements.
- **Negotiated Mitigation Pilot:** This pilot program would experiment with negotiation of mitigation to address environmental impacts of transportation projects.

Judicial Reform

The proposal includes provisions to “reform judicial review standards for environmental reviews to avoid protracted litigation and to make court decisions more consistent. These provisions also would narrow the scope of judicial review by exempting certain actions or issues from challenge.”

- **Limit Injunctive Relief to Exceptional Circumstances:** Limiting injunctive relief to exceptional circumstances “would allow for environmental concerns to be addressed without unduly delaying needed infrastructure projects.”
- **Revise Statute of Limitations for Federal Infrastructure Permits or Decisions to 150 Days:** Establishing a uniform statute of limitations of 150 days for decisions and permits on infrastructure projects “would reduce uncertainty and prevent substantial delays in project delivery, while still affording affected parties an adequate opportunity to initiate legal challenges.”
- **Provide Certainty in Claims on Currentness of Data in Environmental Reviews and Permits:** Directing Federal agencies to establish guidelines regarding when new studies and data are required “would clarify requirements and create more certainty in the NEPA process.”

Workforce Development

The proposal includes provisions “dedicated to the American workforce and to policies that will help Americans secure stable, well-paying jobs. [...] An infrastructure bill will generate new projects that directly increase employment in the construction industry, as well as boost the
demand for labor more broadly as additional infrastructure investment spurs economic growth. The provisions outlined below will ensure our country has enough skilled workers to perform not only existing work but also fill the new jobs created by the bill.”

Access to Education and Workforce Development Programs

- **Expand Pell Grant Eligibility to High-Quality, Short-Term Programs**: Expanding Pell Grant eligibility to high-quality, short-term programs “would allow individuals to use Pell Grants to pay for short-term programs that lead to a credential or certification in an in-demand field. […] Additionally, efforts should be taken to ensure high-quality, short-term courses and programs are available in fields where there are shortages of qualified workers.”

- **Reform Career and Technical Education**: Enacting a modified version of the Perkins Career and Technical Education (CTE) reauthorization bill passed by the House in June 2017 (H.R. 2353) “would ensure that more students in America’s secondary and postsecondary institutions have access to high-quality technical education that teaches them practical knowledge and skills needed in today’s technology-driven economy. There are several important opportunities to amend H.R. 2353 to improve the legislation and advance the Administration’s goals. Needed amendments include:
  - Directing the majority of funding to high schools to promote strategies such as apprenticeship, work-based learning, and dual-enrollment.
  - Authorizing activities to promote and expand apprenticeships.
  - Increasing high-quality CTE programs in high schools by promoting STEM CTE offerings and other offerings related to in-demand industry sectors (determined using the WIOA definition as a starting point and expanded based on input from the private sector) and requiring that they are evidenced-based (as defined by the Every Student Succeeds Act).
  - Allowing States to pool funds to support regional centers and consortia that support multiple districts in partnership with local businesses and other community stakeholders.
  - Strengthening the bill’s emphasis on the use of evidence-based research.
  - Authorizing funding for fast-track programs that prepare high school graduates for jobs rebuilding America’s infrastructure.

- **Strengthen Ties to the Workforce for College Students**: Enacting Federal Work Study (FWS) reforms to better distribute the aid to schools and students who can most benefit “would ensure that more participants obtain relevant workplace experience, including by participating in an apprenticeship.” This could include:
o Revamping the funding formula to send funds to schools with a strong record in enrolling Pell students and putting them on a pathway to success.

o Limiting eligibility to undergraduates.

o Using program dollars to fund career-related internships or expanding apprenticeship and career pathway programs.

Empowering Workers

- Reform Licensing Requirements for Individuals Seeking a Job on an Infrastructure Project: Requiring that States accepting Federal funds for infrastructure projects accept workers with out-of-State licenses to work on those projects “would speed project delivery, reduce project costs, and provide flexibility to workers with out-of-State skilled trade licenses.”