



National Conference of State Legislatures Office of State-Federal Relations

President Formally Releases Infrastructure Plan

Feb. 12, 2017

On Feb. 12, the White House released its “[Legislative Options for Rebuilding Infrastructure in America](#).” The plan is broken down into three main parts—funding and finance, additional provisions, and infrastructure permitting improvement. While the plan itself is a set of principles and proposals, any new federal funding or changes to existing environmental laws would require congressional action and it remains unclear if Congress will enact this plan, propose their own, or do nothing. Additionally, the area of infrastructure involved in any potential plan would impact the number of congressional committees required for approval. For a breakout of the plan’s specific provisions, see below.

As a reminder, on Feb 9, Congress enacted a new FY 2018 and FY 2019 budget agreement, featuring \$300 billion in spending increases that includes a provision to increase “infrastructure” spending by \$20 billion but does not specify where such increases would be directed. For more details on this agreement, [read NCSL’s Info Alert](#).

Stay tuned to NCSL for more updates on a federal infrastructure package later this year. If you have any questions or concerns, please contact NCSL staff [Ben Husch](#) and [Kristen Hildreth](#).

Part 1 – New Infrastructure Funding and Financing

Overall, the plan would provide \$200 billion in direct federal funding that is distributed into four "pots" of funding. The plan would also remove certain restrictions on the ability of state and local governments to raise revenue (tolling existing interstate highways) as well as provide additional flexibility for state and local governments to increase their financing capabilities (removing national cap on the issuance of Private Activity Bonds)

1. Infrastructure Incentives Program

This is the largest pot of funding. It would receive \$100 billion and be structured as a competitive grant program with the \$100 billion appropriated to the Department of Transportation, Army Corps of Engineers and Environmental Protection Agency. Each department would run its own program and other federal agencies could petition any of these three for access to some portion of their funding. Federal funds would be provided to an

applicant based on a set of criteria most heavily weighted towards those applicants able to include new non-federal revenues; applicants could also receive credit for non-federal funds that were created within the last three years at a sliding scale. Additionally, federal funds from this pot would only be able to represent a maximum of 20 percent of the project's cost, a significant reduction from existing programs where federal funds can represent 80 percent.

2. Rural infrastructure Program

This pot would receive \$50 billion, of which \$40 billion would be used to create a formula block grant program for states, tribes and territories and \$10 billion to create a rural performance competitive grant program. The formula program would appropriate funds to state governors based on the percentage of rural population and rural lane miles in their state, which could be used to “respond to the unique rural needs of their states.” The competitive rural performance grant program would only be open to states if they complete certain requirements including the development of a rural infrastructure investment plan (RIIP).

3. Transformative Projects Program

This pot would receive \$20 billion and be designed as a competitive grant program, run solely by the Department of Commerce. Depending upon the type of project, the applicable federal project share would vary between 30 and 80 percent.

4. Infrastructure Financing

The final pot, \$20 billion, focuses on increasing federal investment of federal credit and financing programs. Such programs include Transportation Infrastructure Finance Innovation Act (TIFIA), Railroad Rehabilitation and Improvement Financing (RRIF), Water Infrastructure Finance and Innovation Act (WIFIA), and Rural Utilities Service Lending. In addition to these programs, the plan proposes to remove the annual cap on private activity bonds (PABs), along with other changes, including expanding project eligibility to PABs that would increase their value. There are additional provisions in the document that would provide new flexibilities to states to raise new transportation revenues, including authority to toll existing interstates and commercialize rest areas.

Part II - Additional Infrastructure Improvement Provisions

In addition to the direct federal investments described above, the plan proposes to remove certain restrictions:

- Allow states to toll existing interstate and broaden state authority on use of existing highway toll revenues.
- Allow states to commercialize interstate rest areas.
- Allow states to repay (unadjusted) federal funds to remove federal oversight requirements
- Reduce federal oversight authority on projects with de minimis federal share
- Reduce federal requirements on State Infrastructure Banks to incentivize higher levels of utilization.
- Raise the cost threshold for major project requirements to \$1 billion.
- Authorize utility relocation prior to environmental review completion.
- Require value capture financing for projects using federal transit funds.
- Apply previously enacted highway project streamlining provisions to rail projects.
- Authorize Clean Water State Revolving Fund assistance to privately owned projects.

- Allow non-federal entities to engage in project development and construction on system of inland waterways.
- Create a Superfund revolving loan fund and allow certain superfund sites to be eligible for brownfield grants.
- Streamlining Passenger Facility Applications for non-hub airports.

Public Lands Infrastructure

The plan proposes to establish a maintenance fund at the Department of Interior to help fund infrastructure projects on federal lands. The fund would receive revenues from “energy development” on public lands.

Disposition of Federal Real Property

The plan proposes a number of provisions to streamline the process for the federal government to divest certain federal owned infrastructure to state, local and private entities.

Part III – Infrastructure Permitting Improvement

The plan also proposes many strategies to reduce infrastructure project permitting times.

- Establish a 21-month deadline for lead federal agencies to complete environmental review and a subsequent three-month deadline for the completion of a record of decision on the project itself.
- Authorize a lead federal agency to coordinate all required environmental reviews.
- Authorize federal agencies to assign environmental review requirements to states.
- Allow states to assume responsibilities for right of way acquisitions.
- Directs the president’s Council on Environmental Quality to issue new regulations to streamline the national environmental review process (NEPA).
- Increase flexibility for project use of categorical exclusions.
- Allow final design activities prior to completion of the NEPA process.
- Modify the Federal Power Act to prohibit federal agencies from intervening in proceedings of the Federal Energy Regulatory Commission.
- Authorize federal agencies to accept funding from non-federal entities to support environmental reviews.
- Limit injunctive relief to exceptional circumstances and revise statute of limitations for infrastructure permit decisions to 150 days.