

Statement of  
**Robert Lanham**  
**President**  
**Williams Brothers Construction Co., Inc.**

on behalf of

**The Associated General Contractors of America**

to the

**U.S. Senate**

**Committee on Environment and Public Works**

For a hearing on

**“Better, Faster, Cheaper, Smarter, and Stronger: Infrastructure  
Development Opportunities to Drive Economic Recovery and  
Resiliency”**

July 1, 2020



The Associated General Contractors of America (AGC) is the leading association in the construction industry representing more than 27,000 firms, including America's leading general contractors and specialty-contracting firms. Many of the nation's service providers and suppliers are associated with AGC through a nationwide network of chapters. AGC contractors are engaged in the construction of the nation's commercial buildings, shopping centers, factories, warehouses, highways, bridges, tunnels, airports, waterworks facilities, waste treatment facilities, levees, locks, dams, water conservation projects, defense facilities, multi-family housing projects, and more.

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**Statement of Robert Lanham**  
**Associated General Contractors of America**  
**July 1, 2020**

Chairman Barrasso, Ranking Member Carper, and members of the U.S. Senate Committee on the Environment and Public Works (Committee), thank you for inviting me to testify on this vitally important topic. My name is Bob Lanham. I am a highway and bridge builder from Houston, Texas and currently serve as the President of the Associated General Contractors of America (AGC). AGC is a national organization representing more than 27,000 businesses involved in every aspect of construction activity in all 50 states, Puerto Rico, and Washington, D.C.

The Committee has a strong history of developing and moving bipartisan legislation to improve our highways and bridges. This was most recently demonstrated with the unanimous vote of the Committee to advance the America's Transportation Infrastructure Act (ATIA) to the Senate floor last summer. AGC sincerely appreciates the bipartisan leadership of the Committee because just as America's transportation infrastructure is not built by one contractor, the laws governing federal transportation policies and programs should not be wholly developed by one political party. The give and take of bipartisan compromise not only enhances the likelihood for legislative victory, but also ensures that these policies and programs reflect the diverse needs and priorities of states and local communities across the country.

In my testimony today, I will address how ATIA sets forth a sound roadmap for reducing the timeframe for moving a transportation project from conception to completion through responsible reforms to the environmental review and permitting process. In addition, I will discuss how ATIA sets the course for building more resilient transportation infrastructure in order to address the impacts of climate change.

However, given the COVID-19 pandemic's impact on our economy, the American people, and the construction industry, as well as the impending expiration of the Fixing America's Surface Transportation Act (FAST Act) on September 30, 2020, I would like to first address the need for an immediate infusion of federal funding for state departments of transportation (DOTs) in addition to the swift enactment of a robust, multi-year surface transportation reauthorization bill. As such, I lay out my testimony as follows:

- I. The Pandemic-Induced Need for and Benefits of Immediate and Long-term Transportation Infrastructure Investment**
  - A. The Benefits of Transportation Infrastructure Investment
  - B. The Pandemic-Induced Need for and Benefits of an Immediate Infusion of \$49.95 Billion for State Departments of Transportation
  - C. Realizing the Long-Term Benefits of Investment through the Enactment of Multi-Year Surface Transportation Reauthorization Legislation, Like ATIA
- II. ATIA's Approach to Responsibly Reducing Transportation Construction Project Delivery Time and Costs through Sensible Environmental Review and Permitting Process Reforms**

- A. Section 1301: Efficient Environmental Reviews for Project Decision-making and One Federal Decision
- B. Other Notable Reforms that Accelerate Project Delivery without Sacrificing Substantive Environmental Protections

### **III. ATIA’s Sound Framework for Building More Resilient Transportation Infrastructure to Better Weather Climate Change Impacts**

- A. Section 1407: Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation (PROTECT) Grant Program

### **IV. Conclusion**

#### **I. The Pandemic-Induced Need for and Benefits of Immediate and Long-term Transportation Infrastructure Investment**

##### A. The Benefits of Transportation Infrastructure Investment

The positive relationship between transportation infrastructure investment, economic output, and private sector productivity has been well documented for decades by business analysts, economists, and the research community. For example:

- Investing in transportation infrastructure increases productivity, as new efficiencies in transporting goods and services boost the productive capacity of businesses. In turn, increased productivity drives economic growth — every dollar spent on public transportation infrastructure investment is estimated to increase U.S. Gross Domestic Product (GDP) by roughly \$3 via job creation, system improvements, and stimulated aggregate demand;<sup>1</sup> and
- A study by the Federal Reserve Bank of San Francisco found that every \$1 spent from federal highway funds increases the recipient state’s GDP by \$2 over 10 years, although the multiplier can be as high as \$8, depending upon the specific characteristics of the project.<sup>2</sup>

##### B. The Pandemic-Induced Need for and Benefits of an Immediate Infusion of \$49.95 Billion for State Departments of Transportation

The ongoing COVID-19 pandemic continues to wreak havoc upon our lives, communities, and economy. As I speak before you today, the pandemic has killed more than 125,000 Americans, led to the unemployment of more than 40 million, and closed more than 100,000 small businesses. Some state governments are projecting budget shortfalls double those they experienced at the height of the Great Recession.<sup>3</sup> State transportation revenues are expected to decline by 30

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<sup>1</sup> National Association of Manufacturers, Catching Up: Greater Focus Needed to Achieve a More Competitive Infrastructure, 2014, available at: <https://www.infrastructureusa.org/catching-up-greater-focus-needed-to-achieve-a-more-competitive-infrastructure/>

<sup>2</sup>Sylvain Leduc and Daniel Wilson, Roads to Prosperity or Bridges to Nowhere? Theory and Evidence on the Impact of Public Infrastructure Investment, 2012, available at: <https://www.journals.uchicago.edu/doi/abs/10.1086/669173?mobileUi=0&>

<sup>3</sup> State revenue losses resulting from the COVID-19 recession are expected to well exceed the 11.6 percent drop states experienced during the Great Recession, with some states anticipating declines of more than 20

percent on average over the next 18 months, according to American Association of State Highway and Transportation Officials (AASHTO). The future for robust transportation infrastructure investment is dim when, for example:

- **ILLINOIS:** Average daily traffic counts declined nearly 50 percent throughout the state and the state DOT anticipates a reduction in all transportation revenues of at least 30 percent over the next 18 months. This calculates to a loss of \$2.8 billion.<sup>4</sup>
- **IOWA:** In mid-April, traffic was down 44 percent compared with levels during the same week in 2019.<sup>5</sup> The state's road use tax fund is projected to decline by \$100 million through October because the coronavirus has disrupted lowans' travel and vehicle purchasing patterns.<sup>6</sup>
- **MARYLAND:** Motor fuel tax revenues are the largest single source of the Transportation Trust Fund and are currently being negatively impacted by a 50 percent decline in traffic and low gas prices. MDOT estimates that its budget will be out of balance in both state fiscal years 2020 and 2021, requiring significant spending reductions to bring them back into balance.<sup>7</sup>
- **NEW JERSEY:** Traffic research company Inrix estimated that traffic on New Jersey highways dropped by 62 percent after COVID-19 stay at home orders except for essential workers were issued in March. NJ Turnpike officials reported a \$23 million loss in toll revenues caused by a 29 percent traffic drop in March due to COVID-19.<sup>8</sup>
- **NORTH DAKOTA:** In April, NDDOT reported a 40 percent drop in traffic levels having corresponding negative impacts on the collection of transportation tax revenues. If current abysmal traffic projections continue, the agency noted that it will have a major impact on its ability to maintain roadways and match federal aid.<sup>9</sup>

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percent. National Association of State Budget Officers, State Fiscal Outlook: Pre- & Post-COVID-19, 2020, available at: <http://budgetblog.nasbo.org/budgetblogs/blogs/kathryn-white/2020/06/25/state-fiscal-outlook-pre-post-covid-19>

<sup>4</sup> Illinois Department of Transportation, Letter to Congressional Delegation, April 20, 2020, available at: <https://policy.transportation.org/wp-content/uploads/sites/59/2020/04/Congressional-Delegation-COVID-19-Relief-Request-Letter.pdf>

<sup>5</sup> Eleanore Lamb, Iowa Transportation Commission Approves Five-Year Plan, Transport Topics, June 16, 2020, available at: <https://www.ttnews.com/articles/iowa-transportation-commission-approves-five-year-plan>

<sup>6</sup> Rod Boshart, Commission approves \$3.6 billion five-year transportation plan for Iowa But coronavirus outbreak presents some funding challenges for Department of Transportation, The Gazette, Cedar Rapids, Iowa, June 10, 2020, available at: <https://www.masstransitmag.com/bus/news/21141587/ia-commission-approves-36-billion-fiveyear-transportation-plan-for-iowa-but-coronavirus-outbreak-presents-some-funding-challenges-for-department-of-transportation>

<sup>7</sup> Maryland Department of Transportation, Letter to Congressional Delegation, April 20, 2020, available at: <https://policy.transportation.org/wp-content/uploads/sites/59/2020/04/MD-April-20.pdf>

<sup>8</sup> Larry Higgins, State highway agencies need a \$50B federal cash infusion or construction could halt, group says, May 20, 2020, www.nj.com, available at: <https://www.nj.com/coronavirus/2020/05/state-highway-agencies-need-a-50b-federal-cash-infusion-or-construction-could-halt-group-says.html>

<sup>9</sup> North Dakota Department of Transportation, Letter to Congressional Delegation, April 20, 2020, available at: <https://policy.transportation.org/wp-content/uploads/sites/59/2020/04/COVID19-impacts-to-ND.pdf>

- **WEST VIRGINIA:** The state’s contribution to the Road Fund — mainly from fuel taxes, privilege taxes on vehicle sales, and vehicle registration fees — came up nearly \$20 million, or 27 percent, short in April. A portion of those funds is used to pay off about \$1.6 billion in road bonds sold under the state’s Roads to Prosperity program. It is not clear at what point a prolonged shortfall in Road Fund collection would affect the schedule for repaying those bonds.<sup>10</sup>

In many states, the declines in transportation revenues have already translated into real delays in undertaking new transportation projects. For instance, the Kentucky Transportation Cabinet did not hold bid lettings for new transportation construction contracts in April or May.<sup>11</sup> Letting totals in the state during the last 12 years have averaged about \$900 million per year; this year’s total is projected to be around \$350 million.<sup>12</sup>

Just as we have seen with many other types of businesses during this crisis, construction businesses cannot survive months at a time without work. My greatest fear is that by the time a robust, multi-year surface transportation reauthorization bill becomes law, there will be far fewer construction contractors—many of whom are both my greatest competitors and dearest friends—in business and even fewer construction workers employed to deliver transportation projects.

That is why I applaud Senator Rounds for leading—and many of you on this Committee for signing—the bipartisan letter to Senate Leadership in support of an immediate federal funding infusion of \$49.95 billion for state departments of transportation. Without this funding, the ability of state DOTs to carry out their core functions is threatened. I am deeply concerned that more projects will be delayed, putting the viability of the transportation construction industry and good-paying jobs at risk. As the Senate considers this request, AGC asks that an appropriate balance be achieved between the various proposed eligible uses of this funding. That way, as opposed to other worthy pandemic-related funding requests, this funding will not only help protect many existing public and private sector jobs, it will also help put in place transportation assets that will provide benefits to our economy and communities long after this pandemic is over.

C. Realizing the Long-Term Benefits of Investment through the Enactment of Robust, Multi-Year Surface Transportation Reauthorization Legislation, Like ATIA

The pandemic has highlighted and reinforced that a safe, efficient, and reliable transportation system is a vital part of our ability to respond to a national emergency. It has ensured the safe travel of first responders, health care professionals, and essential workers as well as the expedient delivery of medical supplies to hospitals and basic necessities to homes.

However, the transportation system is not just a necessary component of our response to national emergencies, it plays an integral role in facilitating our nation’s economic growth and improving

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<sup>10</sup> Phil Kabler, Federal windfall offsets plunge in W.Va. Road Fund collection in April, Coal Valley News, May 20, 2020, available at: [https://www.coalvalleynews.com/news/federal-windfall-offsets-plunge-in-w-va-road-fund-collection-in-april/article\\_138fd842-f2ae-5a29-9b18-cfafde806ac2.html](https://www.coalvalleynews.com/news/federal-windfall-offsets-plunge-in-w-va-road-fund-collection-in-april/article_138fd842-f2ae-5a29-9b18-cfafde806ac2.html).

<sup>11</sup> This information was reported to AGC by its members who perform work for the Kentucky Transportation Cabinet.

<sup>12</sup> Id.

the quality of life for all Americans. As this Committee knows well, there have been numerous studies put forward documenting the overall condition of the transportation system and the improvements required to ensure that it can meet our needs now and well into the future.

Enactment of a robust, multi-year surface transportation reauthorization legislation, such as ATIA, will not only provide the long-term certainty state DOTs need to plan and carry out the critical improvements to transportation system, it will also provide a significant economic boost to our Nation at a time when it is desperately needed. Contractors across the country will have the confidence to invest in equipment and materials as well as retain and hire additional employees in anticipation of a strong pipeline of work. These activities will have a ripple effect, spurring economic growth and job creation in other industries, which will help put our Nation on the road to recovery.

While robust investment in our Nation's transportation infrastructure is necessary, its lone inclusion in the legislation is not enough. Such legislation should also include provisions improving the administration of the bureaucratic processes impacting project delivery and sensibly addressing the ways our transportation infrastructure can adapt to challenges. In the sections below, I will discuss how ATIA includes measures addressing these needs among other provisions.

## **II. ATIA's Approach to Responsibly Reducing Transportation Construction Project Delivery Time and Costs through Sensible Environmental Review and Permitting Process Reforms**

Over the last 50 years, Congress enacted a host of laws that seek to ensure a balance among environmental, economic, and health concerns. However, the complicated operation of those laws and intersection of their requirements can lead to delays in environmental review and permitting decisions that can derail the efficient delivery of needed infrastructure projects for many years. These processes can be bureaucratic, lengthy, complex, and duplicative. For example:

- The National Environmental Policy Act (NEPA) may require a project interact with at least 22 federal statutes that incorporate the cooperation of at least 11 federal agencies;<sup>13</sup>
- In December 2018, the Council on Environmental Quality (CEQ) published a report on the amount of time federal agencies took to complete an environmental impact statement (EIS), finding that the average time to complete an EIS was four and a half years. CEQ reviewed 1,161 EISs for which a notice of availability of a final EIS was published between January 1, 2010 and December 31, 2017, and a record of decision (ROD) was issued by June 7, 2018;<sup>14</sup> and

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<sup>13</sup> Associated General Contractors of America, Reforms for Improving Environmental Review and Permitting, July 24, 2017, available at:

[https://www.agc.org/sites/default/files/Galleries/enviro\\_members\\_file/Reforms%20for%20Improving%20Federal%20Environmental%20Review%20and%20Permitting%207-24-17%20FINAL%20v2\\_0.pdf](https://www.agc.org/sites/default/files/Galleries/enviro_members_file/Reforms%20for%20Improving%20Federal%20Environmental%20Review%20and%20Permitting%207-24-17%20FINAL%20v2_0.pdf)

<sup>14</sup> Council on Environmental Quality, Report on Environmental Impact Statement Timelines (2010-2017), December 14, 2018, available at: <https://www.whitehouse.gov/wp-content/uploads/2017/11/CEQ-EIS-Timelines-Report.pdf>

- Per a National Association of Environmental Professionals (NAEP) review of the 194 EISs published in 2015, only 16 percent were prepared in two years or less.<sup>15</sup>

Project delays deny the public the substantial benefits that come from an infrastructure project: improving our economy and our quality of life.

ATIA sets the path to lessen the time and costs associated with federal environmental review and permitting by focusing on better integrating those processes—without jeopardizing necessary environmental protections or considerations—by avoiding sequential and duplicative reviews, minimizing the need to redo documentation and analyses for a permit, and fostering innovation and transparency.

A. Section 1301: Efficient Environmental Reviews for Project Decision-making and One Federal Decision

The most significant reform to the environmental review and permitting process in ATIA is the codification of Executive Order 13807, which institutes the One Federal Decision. This provision addresses significant bureaucratic issues without sacrificing substantive environmental protections that include, but are not limited to:

- **BUREAUCRATIC ISSUE: Time and money is wasted on redoing project analyses and reviews and on collecting duplicative information from permit applicants.** Challenges with environmental review and permitting process are root causes for delays on infrastructure projects. The environmental permit approval process generally entails sequential reviews by multiple agencies and various requests for project specific information. Even though each agency has slightly different forms and different information requirements, some of the information (like project descriptions) is duplicated across applications. This means that there can be multiple forms requesting the same information in different ways.
- **SENSIBLE ATIA SOLUTIONS:**
  - ✓ Calls for all federal authorizations and review for a project to rely on a single environmental document prepared under NEPA.
  - ✓ The final environmental impact statement for a major project must include an adequate level of detail to inform decisions necessary for the role of the participating agencies in the environmental review process.
- **BUREAUCRATIC ISSUE: The absence of completion goals and schedule modifications creates uncertainty.** Under current law, a lead agency is required to “establish a plan for coordinating public and agency participation in and comment on the environmental review process for a project...”. As part of this coordination plan, a lead agency is also required to

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<sup>15</sup> NAEP annually reports information on EIS time frames by analyzing information published by agencies in the Federal Register, with the Notice of Intent to complete an EIS as the “start” date, and the Notice of Availability for the final EIS as the “end” date. However, AGC members’ experiences show that it’s common for large and controversial projects to take even longer than these numbers reflect. See e.g., Federal Highway Administration, “Estimated Time Required to Complete the NEPA Process,” available at - <https://www.environment.fhwa.dot.gov/strmlng/nepatime.asp>.

establish a schedule for completing the environmental review process after consulting with and receiving the concurrence of the participating agencies, the state in which the project is located, and the project sponsor (if applicable). Current law also allows the schedule to be modified under certain circumstances. The duration of such a schedule will vary from project to project. While a modification to a schedule may be necessary, the prospect of such a modification can create uncertainty. Establishing consistent goals to complete the environmental review and permitting process for a project, with appropriation option for extending such goals, will help ensure predictability.

- **SENSIBLE ATIA SOLUTION:**

- ✓ Establishes a two-year goal for completion of environmental reviews under NEPA for major projects with an option to shorten or extend the goal under certain circumstances, and a 90-day timeline thereafter for related project authorizations (permits license, approval) after the issuance of a record of decision for major projects.
- ✓ Requires the Secretary of the U.S. Department of Transportation (USDOT) to work with certain other federal agencies to identify which of its categorical exclusions (CEs), if applied by those agencies, would accelerate project delivery. The other federal agencies are further directed to issue a notice of a proposed rulemaking to adopt any of those CEs.<sup>16</sup>

- **BUREAUCRATIC ISSUE: Environmental reviews and permit processing can get lost in the paper churn among numerous government agencies.** A lack of transparency into a process that involves dozens of federal requirements and perhaps just as many government entities can lead to a project getting lost in the paper shuffle. This costs everyone involved and dependent upon the project time and money.

- **SENSIBLE ATIA SOLUTIONS:**

- ✓ Requires the establishment of a performance accountability system for tracking major projects, which would include at a minimum the environmental reviews process schedule, whether the established schedule is being met, and time taken to complete the environmental review process.
- ✓ If a cooperating agency fails to meet a certain deadline for a major project, the agency must submit a report to the USDOT Secretary that describes why the deadline was missed. The Secretary is then required to submit a report to Congress and make it publicly available on the internet.

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<sup>16</sup> In general, CEs have improved project schedules and efforts to provide additional avenues to identify CEs would further advance time savings efforts. As it stands, state DOTs and selected transit agencies report using such CE provisions already enacted in law to speed up the delivery of highway and transit projects. For example, according to a Government Accountability Office survey, 10 of 17 provisions that mainly created new CE were used by 30 or more state DOTs and generally sped up projects. Government Accountability Office, Highway and Transit Projects: Evaluation Guidance Needed for States with National Environmental Policy Act Authority, January 2018, available at: <https://www.gao.gov/assets/690/689705.pdf>



- ✓ Requires the USDOT Secretary to provide a report on environmental review best practices, programmatic agreements, and potential changes to internal departmental procedures to speed up the environmental review process for projects.

B. Other Notable Reforms that Accelerate Project Delivery without Sacrificing Substantive Environmental Protections

AGC also appreciates the additional provisions included in ATIA to advance efforts to tighten project schedules without jeopardizing environmental protections. These include, but are not limited to:

- **Section 1309:** Establishes deadlines for federal agency review and response (45 days with 30-day extension) of certain categorical exclusion (CE) projects within the operational right of way, including preventative maintenance, preservation, highway safety projects, and new turn lane projects.
- **Section 1310:** Requires the USDOT Secretary to develop an annual report describing the median time for the completion of environmental reviews. As part of the report, the Secretary must list any new CEs and all regulatory requirements that have been removed or reduced in the previous fiscal year.

**III. ATIA's Sound Framework for Building More Resilient Transportation Infrastructure to Better Weather Climate Change Impacts**

A. Section 1407: Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation (PROTECT) Grant Program

In recent years, our nation has experienced significant natural disasters and catastrophic events which have tested our resolve as a country and as individuals. My home state of Texas has faced devastating hurricanes, including Hurricane Harvey in 2017. Our infrastructure, and in particular our transportation system, is vital to ensuring that Americans can safely evacuate from their homes, bring first-responders and critical supplies to those in need, and begin the path to recovery when the event is over and it is safe to do so. However, we've all seen pictures on the news of roads submerged or crumbled and bridges that are impassable, threatening the ability of the system to perform these vital functions.

AGC is pleased that the Committee incorporated provisions in ATIA to improve the resiliency of the transportation system. Arguably, the most significant of these provisions is the establishment of Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation (PROTECT) Grant Program. This program would thoughtfully support projects that reinforce, upgrade, or realign existing transportation infrastructure to better withstand extreme weather. It also includes funding dedicated to specifically improving the resiliency of transportation infrastructure in coastal states and emergency evacuation routes.

The PROTECT Grant Program provides almost \$1 billion each fiscal year in dedicated funding for resiliency-related projects. The funding is distributed through a mix of formula funding to state DOTs and competitive grants to eligible entities. The diverse eligibilities within the program will help ensure that differing needs of states and communities can be adequately addressed. Other provisions include, but are not limited to:

- Expanded eligibilities for resiliency-related projects under the National Highway Performance Program, the Surface Transportation Block Grant Program and the Emergency Relief (ER) Program;
- Consideration of strategies to promote resilience in the National Freight Strategic Plan and state freight plans; and
- Revisions to the manual for the ER program to include procedures that state DOTs can use to incorporate resilience into ER projects, among other items.

#### **IV. Conclusion**

Mr. Chairman, thank you again for convening today's hearing. AGC greatly appreciates the opportunity to appear before the Committee and share our perspective on this important topic. The role of our national transportation system in supporting U.S. competitiveness and our quality of life cannot be understated. Transportation impacts the daily lives of citizens and businesses in every state in the Union. The American public recognizes the need to improve our system and bring it back to world class status.

A golden opportunity is before Congress. At a time when it seems there is little we all agree on, infrastructure may prove to be the missing link. I thank the Committee for steadfast, bipartisan efforts to improve our nation's infrastructure.