

INFRASTRUCTURE: PRESIDENT TRUMP TURNS THE IGNITION AS CONGRESS PREPARES TO TAKE THE WHEEL

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Highlighting the need to rebuild America's "crumbling" infrastructure, President Donald Trump pushed Congress to approve a sweeping infrastructure renewal plan in his State of the Union address this week. While the administration's infrastructure plan has been under development since the president took office, the call to action sent a strong signal that the real work on infrastructure is set to begin. Stakeholders with an interest in the transportation and infrastructure sector should consider the opportunities and risks presented by the evolving policy debate. The K&L Gates transportation and infrastructure policy team is available to help.

THE ADMINISTRATION IS THINKING BIG AND BOLD . . .

In his State of the Union remarks, President Trump called for \$1.5 trillion in new investment to build "gleaming new roads, bridges, highways, railways, and waterways across our land." The message was clear: The president is thinking big, and his policy proposals will be bold.

That much has been confirmed by the outlines of the plan that his administration is expected to transmit to Congress in the coming weeks, which have emerged in an [overview](#) released by the White House this week, a [fact sheet](#) issued alongside last year's budget request, and recent discussion drafts that have circulated among policymakers. Those documents reflect a novel strategy to leverage a relatively small amount of federal spending — \$200 billion over 10 years — to attract greater investments by state and local governments.

This approach reflects a radical rethinking of the federal government's role in infrastructure funding and could potentially unleash a wave of innovation as state and local governments aim to take advantage of the new federal incentives — including through public-private partnerships and other alternative financing methods. The plan would also make targeted investments in rural infrastructure and "transformative" projects, as well as provide additional support for a wide variety of existing infrastructure financing tools, such as the Transportation Infrastructure Finance and Innovation Act ("TIFIA") and Water Infrastructure Finance and Innovation Act ("WIFIA") programs and the tax-exempt private activity bonds ("PABs") that are used to finance many projects.

Just as important as the amount of money on the table is the administration's intentions with respect to infrastructure regulation and permitting. Through an executive order issued last year, the president has already established a two-year goal for completion of the environmental review process for major projects. The additional reforms that the administration is contemplating would go even further, making changes to the underlying statutes to significantly streamline and accelerate project approvals.

... BUT FACES HARD QUESTIONS IN CONGRESS

While the Trump administration has invested considerable time and effort in developing these proposals, it will ultimately be up to Congress to translate them into an actionable package.

At least two major challenges lie ahead. Most significantly, the administration has left it to Congress to determine how to pay for the package. No option represents an easy lift politically. Doubling down on deficit spending could risk opposition from fiscally conservative members of the Republican caucus. However, offsetting new spending with a combination of tax increases (potentially to the gas tax) or other user fees could prove unpopular with constituents in an election year. Either way, answering the "pay for" question will require hard choices from lawmakers.

Another issue lies in the Senate, where the slim margin of Republican control means that advancing any infrastructure package will require Democratic votes. While the administration's plan is centered on leveraging nonfederal sources of funding for new infrastructure, Democrats, by contrast, have consistently called for increases in direct federal spending. Additionally, while Democrats and Republicans have worked together in the past to streamline the approval process for infrastructure projects, expect Democrats to proceed with caution regarding the administration's aggressive permitting proposals and to insist upon strong environmental protections.

Of course, both sides will be evaluating the political consequences of reaching across the aisle as the 2018 elections draw near. However, Congress is far from bound by the administration's proposal, and there is significant room for negotiation and compromise — especially on an issue like infrastructure, which generally enjoys broad bipartisan support.

THE ART OF THE DEAL?

After months of anticipation, infrastructure is poised to climb to the top of the legislative agenda. While there are certainly obstacles to advancing the kind of sweeping package that the president has envisioned, they are not insurmountable. As the president told Congress in his State of the Union address, "If there is a challenge, we tame it. If there is an opportunity, we seize it." Likewise, stakeholders should be prepared to seize the opportunities presented by a potentially historic investment and renewal package.

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