



# ARTBA Federal Legislative and Regulatory Update

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October 28, 2019

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# Federal Agenda

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- Appropriations
- Surface Reauthorization Bill
- Infrastructure Package

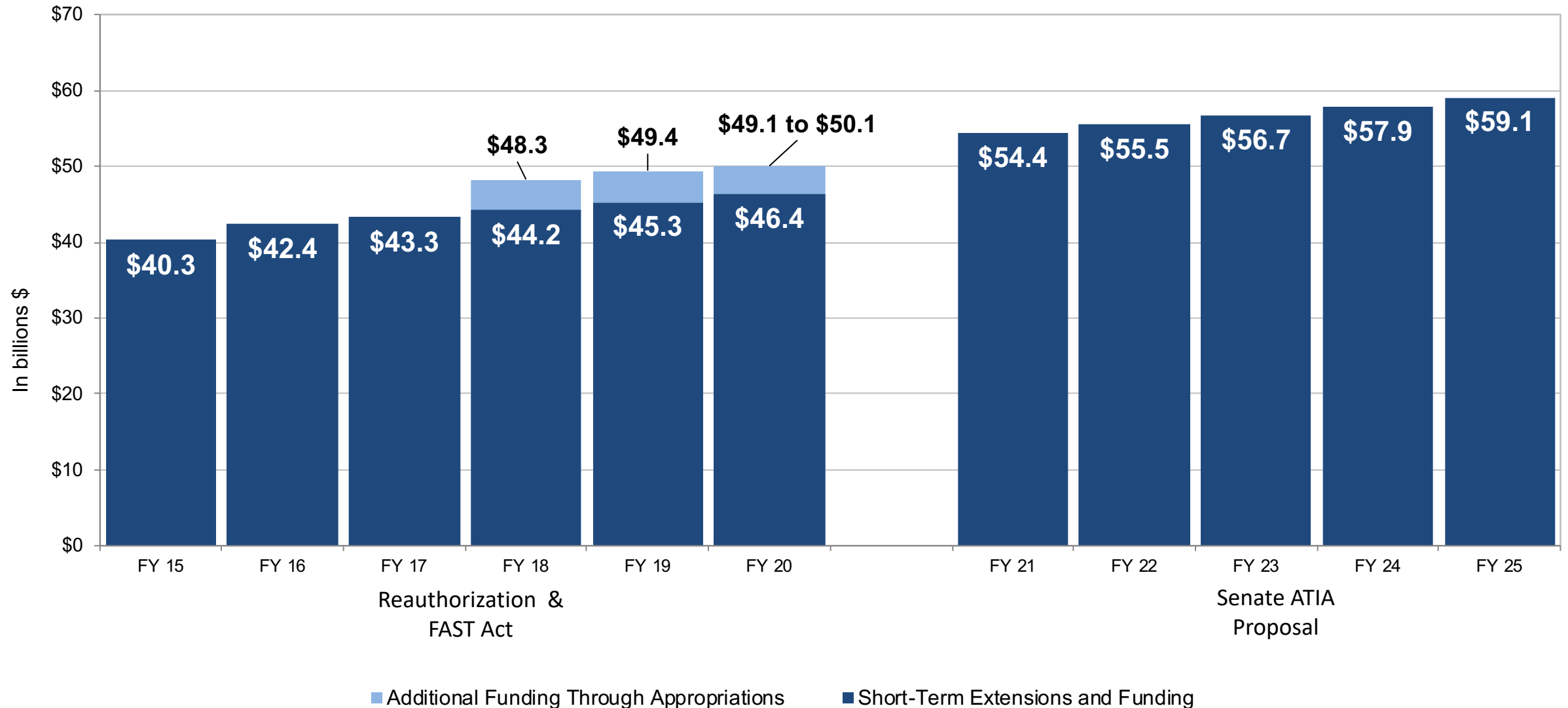
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# FY 2020 Appropriations

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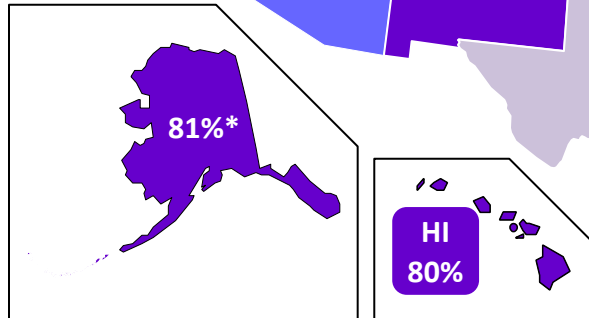
- Continuing Resolution at FY 2019 Levels through Nov. 21
- House Passed Highway Funding - \$48.1 Billion
  - \$1.75 billion above FAST Act Authorized Levels
  - \$400 million less than FY 2019
- Senate Committee Passed Highway Funding - \$49.05
  - \$2.7 billion above FAST Act Authorized Levels
  - \$550 million above FY 2019

# Federal Highway Program Obligation Limitation Under FAST Act, Annual Appropriations and Senate ATIA Proposal



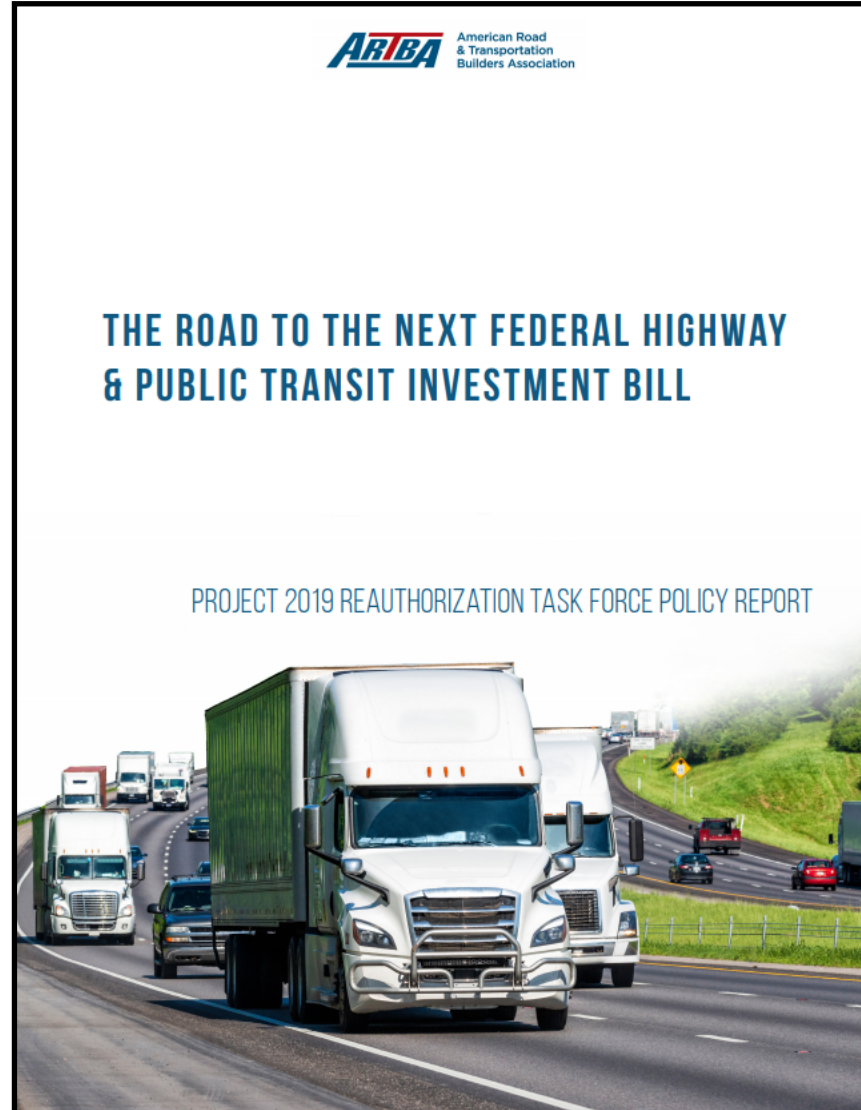
Source: FHWA final notices for annual highway program obligations.

Over 69% of state highway & bridge capital outlays      50 to 69% of state highway & bridge capital outlays      28 to 49% of state highway & bridge capital outlays



\* States that have issued GARVEE bonds before 2014.

# ARTBA Reauthorization Task Force

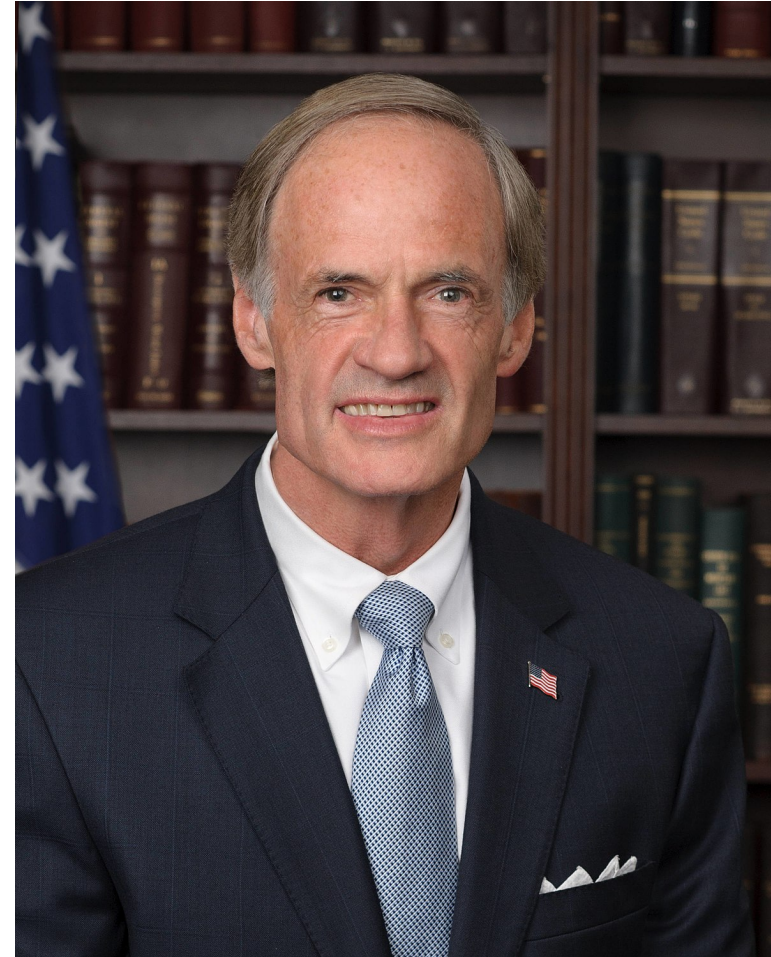
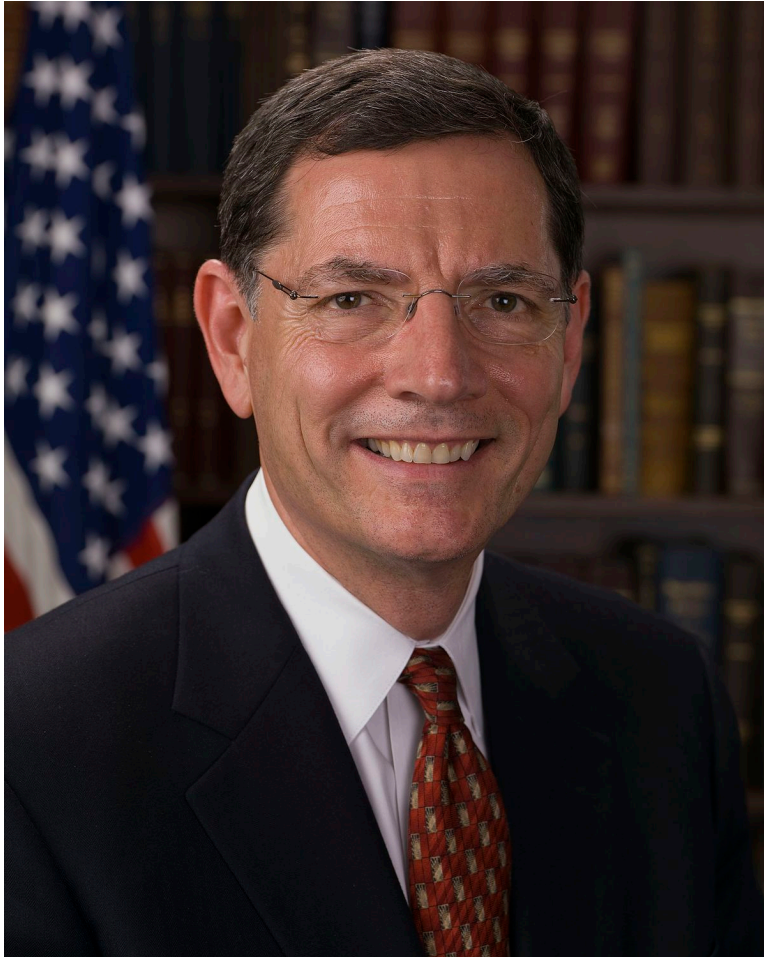




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# Senate Environment & Public Works Committee

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# America's Transportation Infrastructure Act (ATIA)



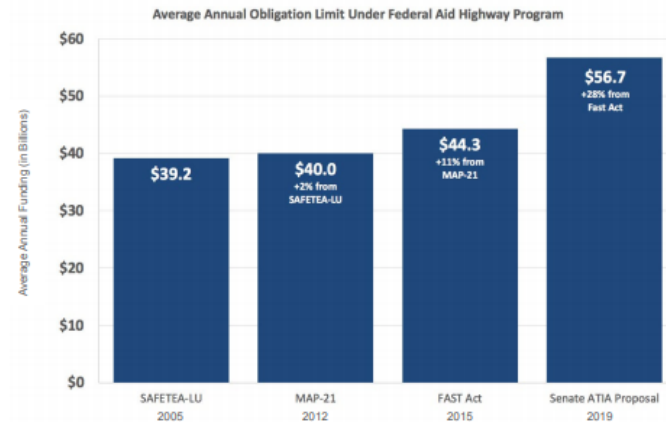
American Road  
& Transportation  
Builders Association

## **The America's Transportation Infrastructure Act of 2019 FAST Act Reauthorization – Highway Title ARTBA Summary Analysis**

The bipartisan leadership of the Senate Environment & Public Works (EPW) Committee July 29 introduced reauthorization legislation that for the first time in nearly 15 years would significantly increase investment in traditional core highway accounts and create several new initiatives and pilot programs. The nearly 470-page "America's Transportation Infrastructure Act (ATIA) of 2019" provides funding from FY 2021 through FY 2025.

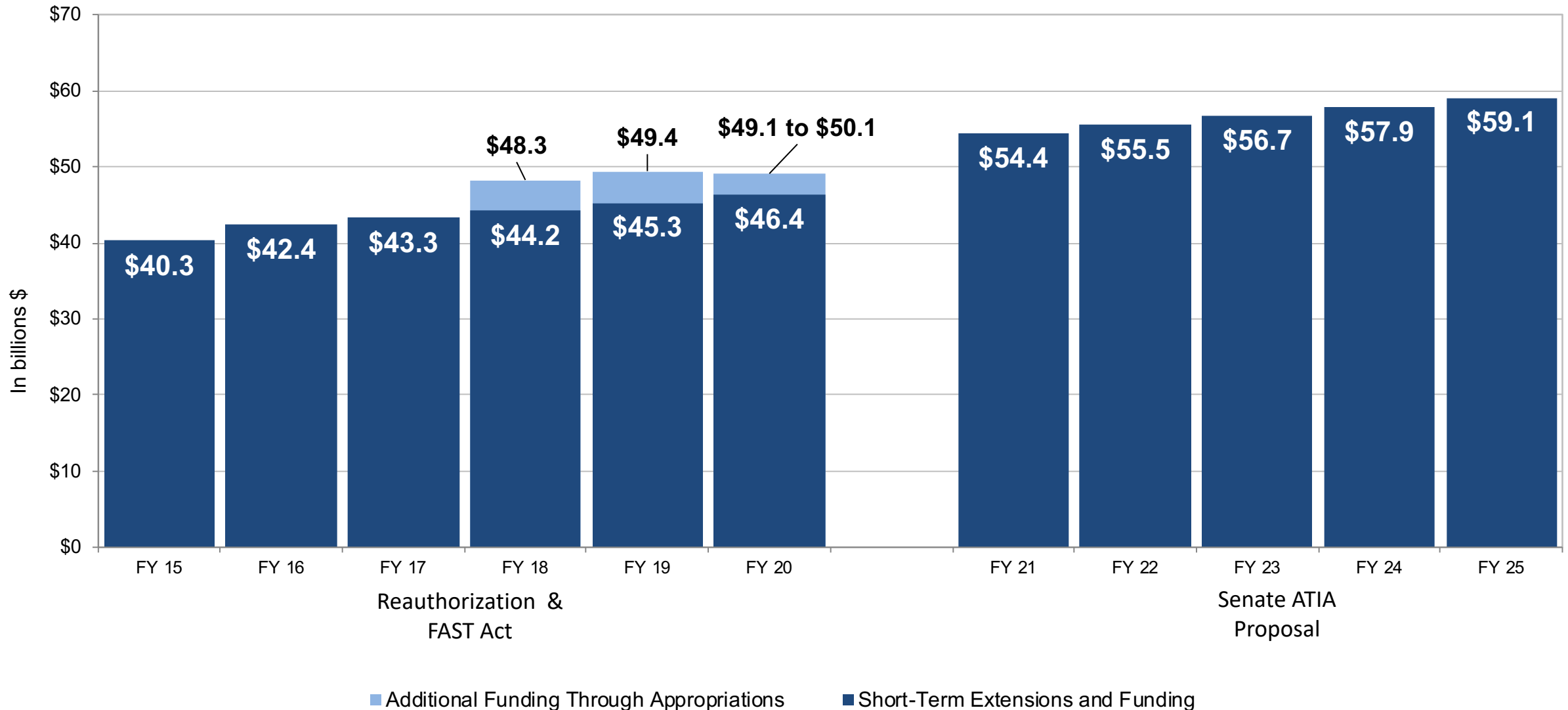
The \$287.3 billion in spending authority over the life of the bill would yield a \$37.9 billion increase above the existing levels of highway investment, plus inflation. Specifically, the measure would increase highway investment by 17 percent in FY 2021, with modest increases in subsequent years.

To put this into context, the increase in annual average funding would be substantially higher than increases seen in the 2012 MAP 21 and 2015 FAST Act laws, as illustrated in the chart below.



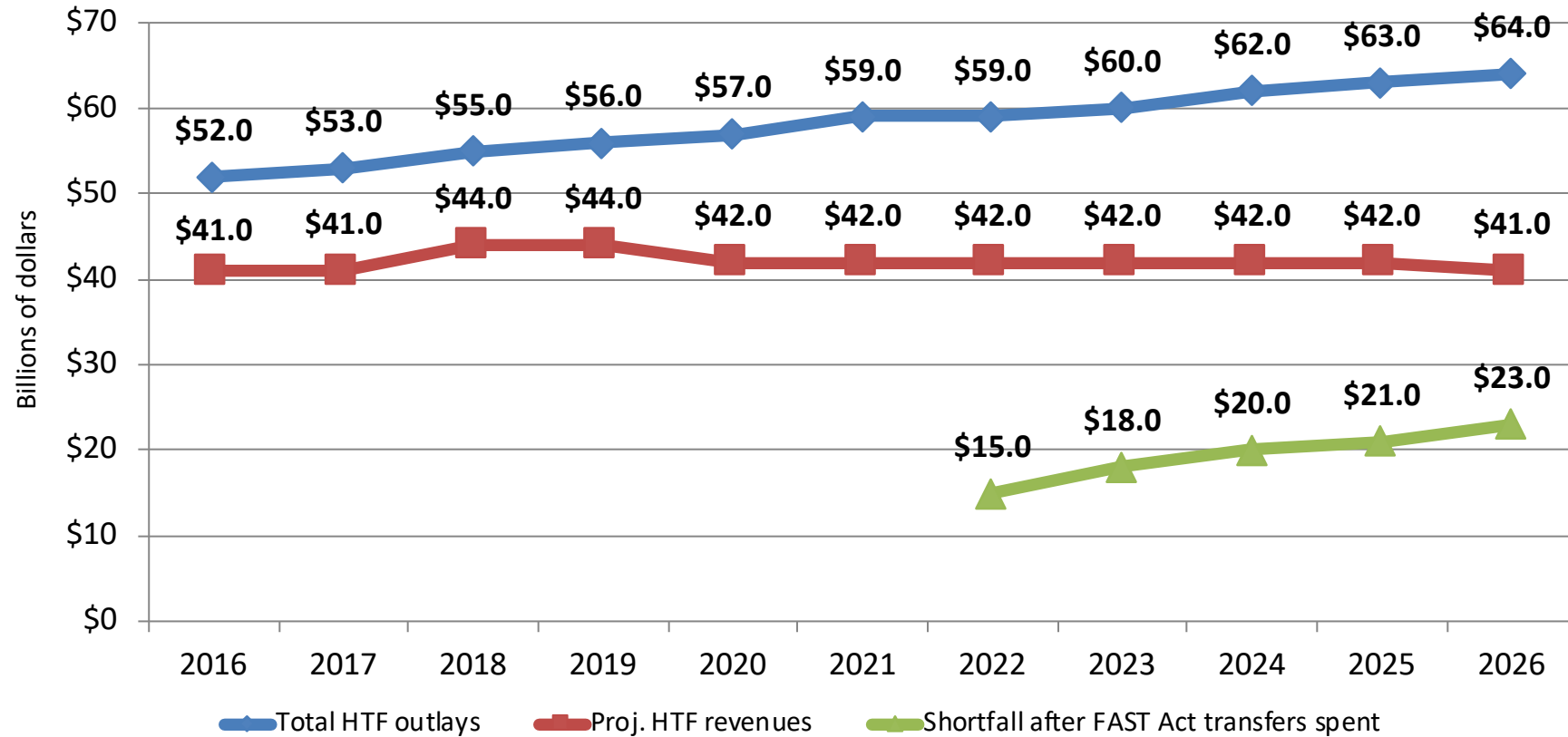


# Federal Highway Program Obligation Limitation Under FAST Act, Annual Appropriations and Senate ATIA Proposal



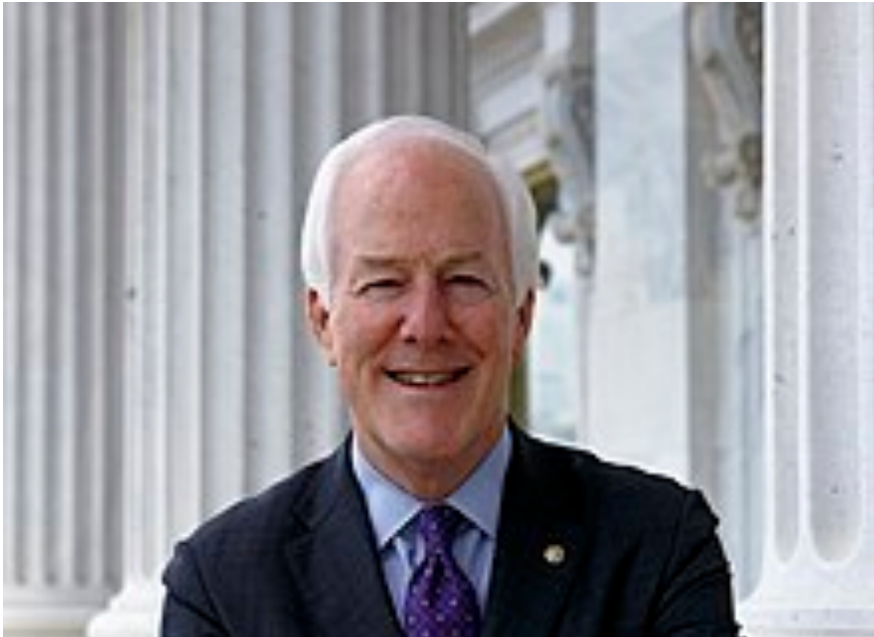
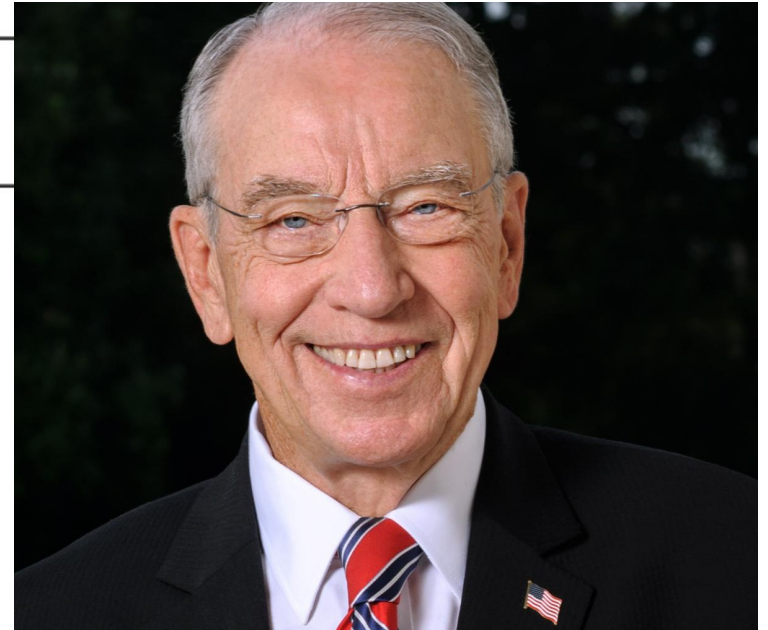
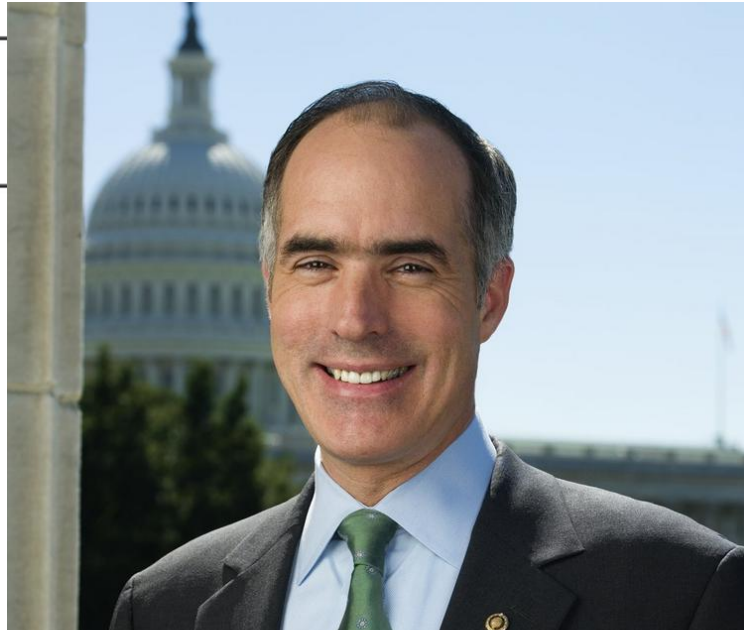
Source: FHWA final notices for annual highway program obligations.

# The Highway Trust Fund Revenue Crisis Will Return



Source: Congressional Budget Office Highway Trust Fund baseline, May 2019

Total may not add up due to rounding.



## Senate Finance Committee

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# Reauthorization or Infrastructure Package?

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- House Transportation & Infrastructure Committee
- House Ways & Means Committee
- Trump Administration

# Regulatory Update

Regulatory Roundup		October 2019 Update
		
<h2>Trump Administration: Ripe for Regulatory Reform</h2> <p>By Nick Goldstein, ARTBA vice president of regulatory &amp; legal issues</p> <p><i>This scorecard tracks more than a dozen rules and proposals, and what action is being taken by ARTBA, the Trump administration, federal agencies and the courts. "EO" stands for "executive order." Newest items are <b>highlighted</b>.</i></p> <p>Check the Regulatory page at <a href="http://www.artba.org">www.artba.org</a> for more updates.</p>		
<b>Geographic-Based Hiring Preferences:</b> U.S. Department of Transportation (U.S. DOT) proposal to allow local hiring preferences.	U.S. DOT repealed the rule change and pilot program in October 2017.	WIN!
<b>Hours of Service:</b> The federal rules limit on-duty motor carrier driver time to address fatigue. It applies to transportation construction drivers although they typically don't spend as many hours per day on the road.	On Aug. 14, the Federal Motor Carrier Safety Administration proposed multiple changes to these rules. Significant changes include expanding the "short haul" exemption from 100 to 150 air miles and allowing non-driving activities to satisfy mandatory break requirements.	PENDING
<b>Buy America:</b> In late 2016, FHWA proposed a nationwide exemption from Buy America regulations for certain, commercially available, off-the-shelf products.	This exemption was not finalized before the Obama administration left office. In April 2017, President Trump signed the "Buy American, Hire American" EO directing all agency heads to examine their use of Buy America waivers. ARTBA continues to encourage FHWA to finalize and implement the 2016 proposal.	PENDING
<b>Transportation Conformity Reform:</b> Disputes between California and the U. S. Environmental Protection Agency (EPA), including an agency threat of withholding federal highway funding, highlight the need to overhaul the federal Clean Air Act's (CAA) transportation conformity process.	In a Sept. 26 letter to the EPA, ARTBA wrote "transportation conformity has become a top-heavy bureaucratic exercise that puts more emphasis on administrative details than on real-world outcomes. The fact that needed highway funds hang in the balance of this dubious process should be a concern for all states."	PENDING
<b>Silica Exposure:</b> The Occupational Safety and Health Administration (OSHA) in October 2017 began enforcing rules to tighten existing federal standard for allowable worker exposure to crystalline silica dust.	On Aug. 15 OSHA, at the urging of ARTBA and industry allies, asked the regulated community to help clarify various aspects of the rule to clarify the activities included in "Table 1", which lists 18 specific construction industry tasks that generate silica exposure and the requirements necessary for compliance.	PENDING
<b>Recordkeeping:</b> The "Volks Rule" would extend the period that OSHA can cite companies for recordkeeping violations from six months to five years.	President Trump in 2017 signed ARTBA-supported legislation striking down the "Volks Rule." In May 2018 OSHA suspended new recordkeeping requirements indefinitely. Two months later, OSHA issued a proposal to reconsider portions of the rule — including ARTBA concerns about the privacy of employer data.	WIN!



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# Regulatory Reform Moves Ahead

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- Revisions of major regulations
- New executive orders
- Must get done now to avoid CRA and defend in court
- Multiple ARTBA priorities addressed

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# Proprietary Products Rule Repealed

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- Major regulatory victory
- Rule enacted in 1912, repealed in 2019
- Good for market, safety, and innovation
- Not done – ARTBA Task Force, MUTCD

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# WOTUS Rule Repealed

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- Fulfills campaign promise made by President Trump
- Long-time ARTBA regulatory goal
- Replacement rule is on the way (expected by end of Dec.)
- Still ongoing litigation

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# Endangered Species Act Reforms

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- Revised “critical habitat” process
- Differentiates between where species is and might be
- Fixes problems highlighted by long-eared bat saga
- ARTBA reauthorization task force priority

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# Hours of Service Rules

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- Short haul exemption expanded from 100 to 150 air miles
- Non driving activities can satisfy rest break requirement
- Workplace reporting issue could be addressed
- Comment period closed October 21, rule being finalized



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# More Work on the Silica Rule

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- OSHA Information Request on “Table 1”
- Inclusion on “Table 1” makes compliance easier
- “Table 1” lists specific activities, what is needed for compliance
- ARTBA, industry allies recommended expanding “Table 1”

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# DOT-Specific Reforms

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- Guidance review – ARTBA comments highlighted DBE, Buy America and fiscal constraint (which was addressed in ATIA)
- Page limits on EIS, EA
- Moving ahead on “One Federal Decision”

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# What Happens in California...

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- SAFE rule would put CA out of compliance with Clean Air Act
- Overdue SIPs lead to threatened highway finding
- ARTBA working for a CA “grace period”
- Transportation conformity needs to be reformed!

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# Other Issues

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- EEOC reconsidering increased salary data requirements
- Major NEPA reforms from CEQ (at OMB now)
- MUTCD to be reopened
- Expect more agency activity in 2020

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# Questions?

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