

Public Law 98-501
98th Congress

An Act

Oct. 19, 1984
[S. 1330]

To establish a National Council on Public Works Improvement to prepare three annual reports on the state of the Nation's infrastructure, to amend the provisions of title 31, United States Code, relating to the President's budget to require it to separately identify and summarize the capital investment expenditures of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Public Works
Improvement
Act of 1984.

TITLE I—NATIONAL COUNCIL ON PUBLIC WORKS
IMPROVEMENT

SHORT TITLE

42 USC 3121
note.

SEC. 101. This title may be cited as the "Public Works Improvement Act of 1984".

ESTABLISHMENT

42 USC 3121
note.

SEC. 102. There is established a council to be known as the National Council on Public Works Improvement (hereinafter in this title referred to as the "Council").

DUTIES

Report.
42 USC 3121
note.

SEC. 103. (a)(1) Not later than February 15, 1986, February 15, 1987, and February 15, 1988, the Council shall prepare and submit to the President and the Congress a report on the state of the Nation's infrastructure (hereinafter in this title referred to as the "Infrastructure Report"). Each Infrastructure Report shall include, but not be limited to, an analysis of each of the following:

(A) the age and condition of public works improvements and changes in their condition from preceding years;

(B) the methods used to finance the construction, acquisition, rehabilitation, and maintenance of public works improvements, including but not limited to general obligation and revenue bonds, user fees, excise taxes, direct governmental assistance, and private investment;

(C) any trends in methods used to finance such construction, acquisition, rehabilitation, and maintenance;

(D) the capacity of public works improvements to sustain current and anticipated economic development and to support a sustained and expanding economy;

LEGISLATIVE HISTORY—P.L. 98-501
CONGRESSIONAL RECORD, Vol. 110, Part 1
October 19, 1984, pp. 11,000-11,001
S. REP. NO. 1000, 98th CONG., 1ST SESS., 1984

(E) maintenance needs and projected expenditures for public works improvements.

(2) In addition, each Infrastructure Report—

(A) shall include a discussion of infrastructure program priorities (including alternative methods of meeting national infrastructure needs to effectuate balanced growth and economic development); and

(B) to the extent practicable, shall provide, for other public works facilities owned or operated by the Federal Government, any State or local government, or any public agency or authority organized pursuant to State or local law, an analysis similar to the analysis provided under paragraph (1) for public works improvements.

(b) Not later than September 30, 1985, the Council shall—

(1) analyze criteria and procedures used by Federal agencies, States, and units of local government in inventorying existing and needed public works improvements and assessing the condition of public works improvements and develop and publish uniform criteria and procedures which may be used for conducting such inventories and assessments; and

(2) develop and recommend to the President and the Congress proposed guidelines for the uniform reporting by Federal agencies of construction, acquisition, rehabilitation, and maintenance data with respect to public works improvements.

(c) The Council shall convene its first meeting no earlier than February 15, 1985, and no later than April 15, 1985.

(d) In carrying out its duties under this section, the Council shall use existing data and sampling techniques to the maximum extent feasible. When developing new data under this title, the Council shall make every effort to assure that such data is developed in consultation with the States so that uniform methods, categories, and analyses are used.

(e) Each Infrastructure Report, when submitted to the Congress, shall be referred to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

MEMBERSHIP

SEC. 104. (a) The Council shall be composed of five members—

(1) three of whom shall be appointed by the President;

(2) one of whom shall be appointed by the Speaker of the House of Representatives; and

(3) one of whom shall be appointed by the President pro tempore of the Senate;

from among persons knowledgeable and experienced in one or more of the following: public administration, planning, architecture, civil engineering, and public investment financing.

(b) A vacancy in the Council shall not affect its powers but shall be filled in the manner in which the original appointment was made.

(c) Four members of the Council shall constitute a quorum, but the Council may establish a lesser number as a quorum for the purpose of holding hearings, taking testimony, and receiving evidence.

(d) The Chairman of the Council shall be elected by the members of the Council.

42 USC 3121
note.

(e) The Council shall meet at the call of the Chairman or a majority of its members.

(f) Members of the Council shall be appointed for the life of the Council.

(g) Members of the Council shall serve without pay, except that they shall receive per diem and travel expenses in accordance with section 5703 of title 5, United States Code.

DIRECTOR AND STAFF

42 USC 3121
note.

SEC. 105. (a) The Council shall have a director who shall be appointed by the Council and shall be paid at a rate not to exceed the rate of basic pay payable to level V of the Executive Schedule.

(b) The Council may appoint and fix the pay of such additional personnel as the Council considers appropriate.

(c) The director and staff of the Council may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may be made without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Any Federal employee subject to the civil service laws and regulations who may be employed by the Council shall retain civil service status without interruption or loss of status or privilege. In no event shall any employee of the Council other than the staff director receive as compensation an amount in excess of the maximum rate of basic pay payable for GS-18 of the General Schedule.

5 USC 5101 *et*
seq., 5331.

5 USC 5332 note.

POWERS OF THE COUNCIL

42 USC 3121
note.

SEC. 106. (a) Upon request of the Council, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist the Council in carrying out its duties under this title.

(b) Upon request of the Council, the Secretary of the Army, acting through the Chief of Engineers, shall provide, on a reimbursable basis, such office space, supplies, equipment, and other support services to the Council and its staff as may be necessary for the Council to carry out its duties under this title.

(c) The Council may secure directly from any department or agency of the United States information necessary to enable it to carry out this title. Upon request of the Chairman of the Council, the head of such department or agency shall furnish such information to the Council.

Contracts with
U.S.

(d) The Council or any member authorized by the Council may, for the purpose of carrying out this title, hold such hearings, sit and act at such time and places, take such testimony, have such printing and binding done, enter into such contracts and other arrangements (with or without consideration or bond, to such extent or in such amounts as are provided in appropriation Acts, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)), make such expenditures, and take such other actions as the Council or such member may deem advisable to carry out this title. Any member of the Council may administer oaths or affirmations to witnesses appearing before the Council or before such member.

ADVISORY GROUP

SEC. 107. (a) There is established an advisory group to provide such assistance and advice as the Council may request. Such group shall be composed of 12 members as follows:

Establishment.
42 USC 3121
note.

- (1) the Secretary of the Army, who shall be the Chairman of such group;
 - (2) the Secretary of Agriculture;
 - (3) the Secretary of Housing and Urban Development;
 - (4) the Secretary of Transportation;
 - (5) the Administrator of the Environmental Protection Agency;
 - (6) the Secretary of Commerce;
 - (7) the Chairman of the National Governors Association;
 - (8) the President of the National Conference of State Legislatures;
 - (9) the President of the National Association of Counties;
 - (10) the President of the National Association of Regional Councils;
 - (11) the President of the National League of Cities; and
 - (12) the President of the United States Conference of Mayors.
- (b) The members of the advisory group shall serve without pay.
- (c) The advisory group shall cease to exist on April 15, 1988.

Termination.

CONGRESSIONAL BUDGET OFFICE REVIEW

SEC. 108. Not later than 90 days after the date on which each Infrastructure Report is submitted to the Congress by the Council, the Congressional Budget Office shall review such report and shall submit a report on the results of such review to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

Report.
42 USC 3121
note.

TERMINATION

SEC. 109. The Council shall cease to exist on April 15, 1988.

42 USC 3121
note.

FUNDING

SEC. 110. (a) From funds otherwise appropriated to the Secretary of the Army for purposes of civil works, the Secretary shall transfer to the Council in the fiscal year ending September 30, 1985, such amounts as the Council may request but not to exceed \$3,200,000.

42 USC 3121
note.

(b) There is authorized to be appropriated to the Council to carry out the provisions of this title \$3,500,000 per fiscal year for each of the fiscal years ending September 30, 1986, and September 30, 1987, and \$2,000,000 for the fiscal year ending September 30, 1988.

Appropriation
authorization.

DEFINITIONS

SEC. 111. For purposes of this title, the term—

42 USC 3121
note.

(1) "acquisition" includes the addition of land, sites, equipment, structures, facilities, or rolling stock by purchase, lease-purchase, trade, or donation;

(2) "construction" includes the design, planning, and erection of new structures and facilities, the expansion of existing structures and facilities, the reconstruction of a project at an existing

site or adjacent to an existing site, and the installation of initial and replacement equipment for such structures and facilities;

(3) "public works improvements" means the following publicly owned civilian facilities: highways; streets; bridges; mass transportation facilities and equipment; resource recovery facilities; airports; airway facilities; water supply and distribution systems; wastewater collection, treatment, and related facilities; dams; federally owned buildings; docks and ports; waterways; and such other public facilities as the Council determines are critical for national economic development;

(4) "maintenance" means regularly scheduled activities, including routine repairs, intended to keep a facility operating efficiently; and

(5) "rehabilitation" includes the alteration of or correction of deficiencies in an existing structure or facility so as to extend the useful life or improve the effectiveness of the structure or facility, the modernization or replacement of equipment at an existing structure or facility, and the modernization of, or replacement of parts for, rolling stock.

TITLE II—FEDERAL CAPITAL INVESTMENT PROGRAM

SHORT TITLE

SEC. 201. This title may be cited as the "Federal Capital Investment Program Information Act of 1984".

PURPOSES

SEC. 202. The purposes of this title are—

(1) to provide budget projections for major Federal capital investment programs;

(2) to provide a summary of the most recent needs assessment analyses for these programs;

(3) to provide information on the sensitivity of the needs estimates to major policy issues and technical and economic variables;

(4) to assist the planning capabilities of State and local governments on the assessment of major capital investment programs; and

(5) to improve legislative oversight over Federal capital investment programs.

FEDERAL CAPITAL INVESTMENT PROGRAM REPORT

SEC. 203. Section 1105 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) The President shall submit with materials related to each budget transmitted under subsection (a) on or after January 1, 1985, an analysis for the ensuing fiscal year that shall identify requested appropriations or new obligational authority and outlays for each major program that may be classified as a public civilian capital investment program and for each major program that may be classified as a military capital investment program, and shall contain summaries of the total amount of such appropriations or new obligational authority and outlays for public civilian capital investment programs and summaries of the total amount of such appropriations or new obligational authority and outlays for military

Federal Capital
Investment
Program
Information Act
of 1984.

31 USC 1101
note.

31 USC 1105
note.

capital investment programs. In addition, the analysis under this paragraph shall contain—

“(A) an estimate of the current service levels of public civilian capital investment and of military capital investment and alternative high and low levels of such investments over a period of ten years in current dollars and over a period of five years in constant dollars;

“(B) the most recent assessment analysis and summary, in a standard format, of public civilian capital investment needs in each major program area over a period of ten years;

“(C) an identification and analysis of the principal policy issues that affect estimated public civilian capital investment needs for each major program; and

“(D) an identification and analysis of factors that affect estimated public civilian capital investment needs for each major program, including but not limited to the following factors:

“(i) economic assumptions;

“(ii) engineering standards;

“(iii) estimates of spending for operation and maintenance;

“(iv) estimates of expenditures for similar investments by State and local governments; and

“(v) estimates of demand for public services derived from such capital investments and estimates of the service capacity of such investments.

To the extent that any analysis required by this paragraph relates to any program for which Federal financial assistance is distributed under a formula prescribed by law, such analysis shall be organized by State and within each State by major metropolitan area if data are available.

“(2) For purposes of this subsection, any appropriation, new obligational authority, or outlay shall be classified as a public civilian capital investment to the extent that such appropriation, authority, or outlay will be used for the construction, acquisition, or rehabilitation of any physical asset that is capable of being used to produce services or other benefits for a number of years and is not classified as a military capital investment under paragraph (3). Such assets shall include (but not be limited to)—

“(A) roadways or bridges,

“(B) airports or airway facilities,

“(C) mass transportation systems,

“(D) wastewater treatment or related facilities,

“(E) water resources projects,

“(F) hospitals,

“(G) resource recovery facilities,

“(H) public buildings,

“(I) space or communications facilities,

“(J) railroads, and

“(K) federally assisted housing.

“(3) For purposes of this subsection, any appropriation, new obligational authority, or outlay shall be classified as a military capital investment to the extent that such appropriation, authority, or outlay will be used for the construction, acquisition, or rehabilitation of any physical asset that is capable of being used to produce services or other benefits for purposes of national defense and security for a number of years. Such assets shall include military bases, posts, installations, and facilities.

Defense and
national
security.

"(4) Criteria and guidelines for use in the identification of public civilian and military capital investments, for distinguishing between public civilian and military capital investments, and for distinguishing between major and nonmajor capital investment programs shall be issued by the Director of the Office of Management and Budget after consultation with the Comptroller General and the Congressional Budget Office. The analysis submitted under this subsection shall be accompanied by an explanation of such criteria and guidelines.

"(5) For purposes of this subsection—

"(A) the term 'construction' includes the design, planning, and erection of new structures and facilities, the expansion of existing structures and facilities, the reconstruction of a project at an existing site or adjacent to an existing site, and the installation of initial and replacement equipment for such structures and facilities;

"(B) the term 'acquisition' includes the addition of land, sites, equipment, structures, facilities, or rolling stock by purchase, lease-purchase, trade, or donation; and

"(C) the term 'rehabilitation' includes the alteration or correction of deficiencies in an existing structure or facility so as to extend the useful life or improve the effectiveness of the structure or facility, the modernization or replacement of equipment at an existing structure or facility, and the modernization of, or replacement of parts for, rolling stock."

Approved October 19, 1984.

LEGISLATIVE HISTORY—S. 1330 (H.R. 1244):

HOUSE REPORTS: No. 98-153 accompanying H.R. 1244, Pt. 1 (Comm. on Public Works and Transportation) and Pt. 2 (Comm. on Government Operations), and No. 98-1134 (Comm. of Conference).

SENATE REPORT No. 98-341 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 130 (1984):

Feb. 9, considered and passed Senate.

May 15, H.R. 1244 considered and passed House; S. 1330, amended, passed in lieu.

Oct. 4, House agreed to conference report.

Oct. 5, Senate agreed to conference report.