

112TH CONGRESS
1ST SESSION

S. 615

To improve the accountability and transparency in infrastructure spending by requiring a life-cycle cost analysis of major infrastructure projects, providing the flexibility to use alternate infrastructure type bidding procedures to reduce project costs, and requiring the use of design standards to improve efficiency and save taxpayer dollars.

IN THE SENATE OF THE UNITED STATES

MARCH 17, 2011

Mr. VITTER introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To improve the accountability and transparency in infrastructure spending by requiring a life-cycle cost analysis of major infrastructure projects, providing the flexibility to use alternate infrastructure type bidding procedures to reduce project costs, and requiring the use of design standards to improve efficiency and save taxpayer dollars.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Fiscal Accountability
3 and Transparency in Infrastructure Spending Act of
4 2011”.

5 **SEC. 2. DEFINITIONS.**

6 In this Act:

7 (1) AGENCY.—The term “agency” has the
8 meaning given the term “Executive agency” in sec-
9 tion 105 of title 5, United States Code.

10 (2) ALTERNATE INFRASTRUCTURE TYPE BID-
11 DING.—The term “alternate infrastructure type bid-
12 ding” means a process under which a Federal, State
13 or local agency determines, from engineering and
14 economic analysis, that 2 or more initial project de-
15 signs utilizing different construction materials and
16 methods and their forecasted performance and life-
17 cycle costs are comparable or similar enough to war-
18 rant solicitation of bids on more than 1 design for
19 a project.

20 (3) LIFE-CYCLE COST ANALYSIS.—The term
21 “life-cycle cost analysis” means a process for evalu-
22 ating the total economic worth of an infrastructure
23 project by analyzing initial costs and discounted fu-
24 ture costs, such as structural maintenance, user
25 costs, reconstruction, rehabilitation, restoring, and
26 resurfacing costs, over at least a 50-year period.

1 (4) MAJOR INFRASTRUCTURE PROJECTS.—The
2 term “major infrastructure projects” means high-
3 way, transit, rail (including high-speed passenger
4 rail), airport, seaport, public housing, energy, water,
5 bridge, and military construction projects, including
6 those authorized under titles 23, 40, and 49, United
7 States Code, for which the total Federal cost esti-
8 mated by the Federal or State government, includ-
9 ing the cost of materials, is not less than
10 \$5,000,000.

11 (5) MECHANISTIC-EMPIRICAL PAVEMENT DE-
12 SIGN GUIDE.—The term “Mechanistic-Empirical
13 Pavement Design Guide” means the pavement de-
14 sign guide and software, developed under National
15 Cooperative Highway Research Program Project 1-
16 37A, providing a uniform basis for the design of
17 flexible, rigid, and composite pavements, using
18 mechanistic-empirical approaches.

19 **SEC. 3. LIFE-CYCLE COST ANALYSIS.**

20 (a) REQUIREMENT TO OBTAIN LIFE-CYCLE COST
21 ANALYSIS.—Not later than 1 year after the date of the
22 enactment of this Act, each agency shall obtain a life-cycle
23 cost analysis based on the standards developed by the Of-
24 fice of Management and Budget pursuant to subsection

1 (c) for each major infrastructure project prior to obli-
2 gating funds.

3 (b) SOURCES OF LIFE-CYCLE COST ANALYSIS.—The
4 life-cycle cost analysis required under subsection (a) may
5 be obtained from State or local governments, or private
6 sector entities.

7 (c) GUIDANCE.—

8 (1) DEVELOPMENT.—Not later than 6 months
9 after the date of the enactment of this Act, the Di-
10 rector of the Office of Management and Budget, in
11 consultation with the American Association of State
12 Highway and Transportation Officials, shall issue a
13 circular that provides guidance to agencies on imple-
14 menting the requirements under subsection (a).

15 (2) REQUIREMENTS.—In developing the cir-
16 cular required under paragraph (1), the Director
17 shall—

18 (A) provide the public with notice and op-
19 portunity to comment before issuing the cir-
20 cular;

21 (B) consider the principles contained in
22 section 2 of Executive Order 12893, “Principles
23 for Federal Infrastructure Investments” (Janu-
24 ary 31, 1994; 59 Fed. Reg. 4233); and

1 (C) require that any analysis obtained pur-
2 suant to subsection (a)—

3 (i) be conducted over at least a 50-
4 year valuation period; and

5 (ii) use actual material life and main-
6 tenance cost data.

7 (d) TRANSPARENCY.—Any life-cycle analysis ob-
8 tained by an agency pursuant to subsection (a) shall be
9 posted on the agency’s Web site not later than 72 hours
10 after it is received.

11 **SEC. 4. FLEXIBILITY TO USE ALTERNATE INFRASTRUC-**
12 **TURE TYPE BIDDING PROCEDURES.**

13 (a) APPLICATION TO NATIONAL HIGHWAY SYS-
14 TEM.—A State transportation department or local trans-
15 portation agency may, in its sole discretion, award con-
16 tracts for projects on the National Highway System pur-
17 suant to alternate infrastructure type bidding procedures.

18 (b) APPLICATION TO OTHER MAJOR INFRASTRUC-
19 TURE PROGRAMS.—Notwithstanding any other provision
20 of law, Federal, State and local governments may award
21 contracts for major infrastructure projects pursuant to al-
22 ternate infrastructure type bidding procedures.

1 **SEC. 5. MECHANISTIC-EMPIRICAL PAVEMENT DESIGN**
2 **GUIDE.**

3 Not later than 1 year after the date of enactment
4 of this Act, the Secretary of Transportation shall require
5 States to utilize the Mechanistic-Empirical Pavement De-
6 sign Guide for the initial design phase of all projects au-
7 thorized under title 23, United States Code.

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