Safeguarding Trillions in Taxpayer Dollars for Infrastructure

April 4, 2022

Today, the Levin Center at Wayne Law released a set of recommendations to safeguard the spending of trillions of taxpayer dollars on infrastructure under the 2022 Infrastructure Investment and Jobs Act (IIJA). The recommendations arose from an online symposium cohosted last week by the Levin Center and the *Wayne Law Review* which featured experts discussing a wide variety of infrastructure oversight issues.

"All fifty states are about to be flooded with money to pay for better roads, bridges, dams, water treatment systems, electric vehicle charging stations, broadband, and more," said Jim Townsend, director of the Levin Center, "and overseeing how those taxpayer dollars are spent is critical to shielding them from waste, fraud and abuse."

"Working on the symposium has been an eye-opening experience on how the law can be used to track spending, measure performance, and otherwise ensure communities benefit from the infrastructure projects they are financing," said Parker Feldman, *Wayne Law Review* symposium editor and third-year law student graduating next month. "More oversight is the ticket to better stewardship of taxpayer money."

The symposium focused on how to ensure effective oversight of spending that travels from Congress to federal agencies to state capitols to local governments to contractors. Seven experts on two panels discussed how to establish and enforce effective oversight mechanisms. The speakers represented Congress, the auditing community, private sector, and public interest and community organizations. Senator Gary Peters also provided welcoming remarks.

Afterward, the Levin Center with help from the panelists developed a detailed list of ways to strengthen infrastructure oversight. The recommendations, which will be forwarded to federal and state authorities and relevant organizations, are as follows:

Capacity Building

- Build a culture of infrastructure oversight at the federal, state and local levels.
- Establish a committee of inspectors general, either modeled after the Pandemic Response Accountability Committee (PRAC) or by expanding the PRAC mandate, to coordinate federal infrastructure oversight, data, and analysis.
- Invest more in oversight capacity in the executive and legislative branches, at the federal and state levels, to enable more rigorous and timely investigations and reports.
- Build into federal and state laws, regulations, and practices up-front risk assessments, continuous auditing, and fraud detection.

Public Involvement
- Build a public website that tracks spending under the IIJA and enables public and private sector analysis of government and contractor spending and performance.
- Expand up-front community involvement in infrastructure policy and projects, particularly in establishing project needs, scope, and design.
- Educate national, state, and local media about the IIJA to assist in media oversight.

Design & Practice
- Encourage states to be more specific about their infrastructure goals in planning documents and performance metric design. Encourage reviews of past state projections for congestion reduction, reliability, safety improvements, and repair to identify challenges and improve future projections.
- Monitor and critique performance of infrastructure programs, including formula-based programs, using agreed upon goals and criteria, including repair and safety.
- Enlist project owners, auditors, agencies, prime contractors, and lawmakers in executing different aspects of oversight of specific infrastructure projects.

Data & Measurement
- Require more timely availability of data on infrastructure condition, safety, and performance management results. Measure the movement of people and the performance of non-car transportation systems.
- For electric vehicle charging stations, create a national data warehouse, direct grantees and contractors to supply data on charger use, reliability, and performance, and ensure the data is collected and analyzed.
- Leverage technology and best practices from industry regarding useful performance criteria and methods for gathering infrastructure performance data.

Contracting
- Provide training for state and local government personnel on project planning and cost estimation to enable effective reviews of contractor bids and make informed selections.
- Build oversight elements into infrastructure contracts requiring contractors to report performance data on a timely basis and cooperate with agency and auditor oversight.
- Build oversight costs into each contract.
- Provide state contracting officer and supervisor training on the collection and analysis of contract performance data (quality metrics, pay protocols tied to milestones, safety performance) and how to deal with subpar performance.
- Encourage or require cost estimates to be updated every 3 years.

More information about the symposium, "Oversight, Infrastructure, and Federalism: Ensuring Transparency, Accountability, and Effectiveness of U.S. Infrastructure Investments," is available on the Levin Center website, including recordings of the two panels and background materials. The *Wayne Law Review's* infrastructure edition, which will feature articles written by several Symposium panelists and other experts, will become available this summer.

The Levin Center at Wayne Law, named in honor of former U.S. Senator Carl Levin, promotes fact-based, bipartisan oversight investigations by Congress and the 50 state legislatures through oversight workshops, research, events, commentary, and other activities. The Wayne Law

Review, the law school's primary scholarly journal, sponsors a biennial symposium and law review edition focused on a specific oversight topic. While both organizations are affiliated with Wayne State University Law School, their views do not present the institutional views, if any, of Wayne State University or the Law School.

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