

Congress of the United States
Washington, DC 20515

May 29, 2024

The Honorable Pete Buttigieg
Secretary of Transportation
1200 New Jersey Avenue SE
Washington, D.C. 20590

Dear Mr. Secretary:

We write regarding your recent decision to award over \$3 billion in taxpayer money to the controversial California High-Speed Rail project.¹ As Ranking Member of the United States Senate Committee on Commerce, Science, and Transportation, and Chairman of the United States House of Representatives Committee on Transportation and Infrastructure (together, the Committees), we are concerned that the Department of Transportation (DOT) continues funding the California High-Speed Rail endeavor. This project is not entitled to special treatment at the expense of both taxpayers and deserving infrastructure projects across the country.

In 2008, Californians voted for Proposition 1A that authorized a bond issue to help fund the construction of an 800-mile high-speed rail system with segments running from as far north as Sacramento to San Diego.² Voters were promised that the California High-Speed Rail project would cost the state \$33 billion and be completed by 2020.³ Fifteen years later, the California High-Speed Rail project has become one of the most troubled “megaprojects” in the nation.

The California High-Speed Rail Authority (CHSRA) still has not completed a single segment of the system, the total estimated cost has ballooned to \$128 billion and counting, and there is no expected completion date.⁴ CHSRA has recently focused its efforts on completing a 171-mile segment between Merced and Bakersfield.⁵ This segment alone will cost more than \$35 billion to serve about two million riders annually.⁶

¹ FRA, FY22–23 Federal-State Partnership for Intercity Passenger Rail Program Selections (Nov. 20, 2023), <https://railroads.dot.gov/sites/fra.dot.gov/files/2023-12/FY22->

² California High Speed Rail Authority, What is Proposition 1A?, https://hsr.ca.gov/wp-content/uploads/2021/04/Prop_1A_High-Level_Facts.pdf (last accessed Apr. 16, 2024).

³ Chip Yost & Travis Schlepp, *For California’s Bullet Train, Progress is Being Made But Its Completion Date Remains a Mystery*, KTLA 5 (Feb. 15, 2024), <https://ktla.com/news/california/for-californias-bullet-train-progress-is-being-made-but-its-completion-date-remains-a-mystery/>.

⁴ Letter from Chairman Thompson, California High-Speed Rail Peer Review Group, to California Lawmakers (Mar. 23, 2023), <https://www.cahsrpgr.com/wp-content/uploads/sites/15/2023/03/Final-to-legislature-3-23-2023.pdf>.

⁵ 2023 Project Update Report, CHSRA (Feb. 28, 2023), <https://hsr.ca.gov/wp-content/uploads/2023/03/2023-Project-Update-Report-FINAL-022823.pdf>.

⁶ *Id.* at 1–2, 32, 61.

Despite California’s reputation as a high-tax state, the high-speed rail project far exceeds the state’s ability to finance the project, and it is now seeking substantial federal subsidies.⁷ In March 2023, the CHSRA Peer Review Group, whose job is to evaluate CHSRA’s funding plans, sounded the alarm. It reported an astounding “unfunded gap of \$92.6 billion to \$103.1 billion between estimated costs and known State and Federal funding” for the full San Francisco-to-San Diego system.⁸

Moreover, for just the Merced-to-Bakersfield section, the unfunded gap is at least \$2.5 billion.⁹ The CHSRA Peer Review Group further concluded, with poignant understatement, that “there are few who would argue that completing this short section, by itself, at a cost of up to \$35 billion, can be justified. Rather it would make sense only in the context of a commitment to building the complete . . . system.”¹⁰ Furthermore, the entire “system poses a growing financial challenge for the State because the gap is already large, and costs have been increasing faster than identifiable potential financing while forecast ridership has fallen.”¹¹ To put it another way, even if California could find the billions of dollars it needs to complete the Merced-to-Bakersfield section, it would not be prudent to use that funding unless the state could also commit to an additional \$100 billion to build the entire system. Indulging this endeavor may also have substantial implications for both California and the federal government’s ability to improve the broader interstate surface transportation system.

Despite evidence that continues to show that the California High Speed Rail project has critical issues indicating there is no reasonable path forward for successful completion of the project—as was shown at a hearing before the House Subcommittee on Railroads, Pipelines, and Hazardous Materials¹²—the Biden administration continues to allocate substantial federal taxpayer dollars to this highly questionable endeavor. For example, in June 2021, the Federal Railroad Administration (FRA) gave \$929 million in funding to CHSRA—money the Trump administration withheld due to California having “no foreseeable plans, nor the capability, to pursue that statewide [rail] [s]ystem as originally proposed” (which is the same concern the

⁷ Tax Foundation, State and Local Tax Burdens, Calendar Year 2022, <https://taxfoundation.org/data/all/state/tax-burden-by-state-2022/> (last accessed Apr. 18, 2024); California High-Speed Rail Authority, Federal Grants, <https://hsr.ca.gov/about/funding/federal-grants/> (last accessed Apr. 18, 2024).

⁸ Letter from Chairman Thompson, *supra* note 4.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² In written testimony, Professor Lee Ohanion explained that the California High-Speed Rail project “should not have been pursued” in the first place because it “was too big, with far too many uncertainties and risks”—many of which CHSRA failed to address—“and with too many forecasts that may have been little more than assumptions.” Lee Ohanion, *Challenges in Implementing High Speed Rail: Lessons from California’s Experience*, Testimony for Subcomm. on Railroads, Pipelines, and Hazardous Materials, at 2 (Nov. 29, 2023). Stacey Mortensen of the San Joaquin Joint Powers Authority, a member of the CHSRA Peer Review Group, testified that CHSRA needs to “take a step back” to assess “what can really be done.” *Id.*

CHSRA Peer Review Group has also raised).¹³ In June 2023, DOT awarded CHSRA a \$20 million grant under the RAISE program, which is supposed to help *small* communities whose projects “otherwise cannot turn to the Federal government for support.”¹⁴ California’s massive high-speed rail venture hardly fits that bill. And, in September 2023, FRA gave CHSRA another \$202 million—the largest single award under the popular Consolidated Rail Infrastructure and Safety Improvements (CRISI) program, which also supports short line freight railroads and safety projects.¹⁵

Further, in December 2023—after the CHSRA Peer Review Group report and the Subcommittee on Railroads, Pipelines, and Hazardous Materials of the Committee on Transportation and Infrastructure hearing highlighted significant problems with the project—DOT doubled down with a \$3.07 billion award to CHSRA from the Federal-State Partnership for Intercity Passenger Rail (Fed-State) grant program.¹⁶ DOT had pledged that those discretionary grant awards would “support projects that improve safety, economic strength and global competitiveness, equity, climate and sustainability, and transformation.”¹⁷ We have serious concerns that CHSRA does not meet these standards.

Recent submissions to the California legislature continue to reflect significant concerns that this project will fail. In its March 2024 update, the Peer Review Group noted that the \$3.3 billion in DOT awards over the last year have not closed even half of the unfunded gap for the isolated Merced-to-Bakersfield segment.¹⁸ The Inspector General (IG) of CHSRA also highlighted the need for a more detailed funding plan for Merced-to-Bakersfield and for management controls to

¹³ Derek Francis, Kanishka Singh, & David Shepardson, *Biden Restores \$929 Mln for California High-Speed Rail Withheld by Trump*, REUTERS (Jun. 11, 2021), <https://www.reuters.com/world/us/biden-administration-restores-929-mln-california-high-speed-rail-2021-06-11/>; Press Release, CHSRA, California and Federal Government Reach Agreement: Nearly \$1 Billion in Funding Returned to the High-Speed Rail Project (Jun. 11, 2021), <https://hsr.ca.gov/2021/06/11/statements-fy10-settlement-federal-funding/>; Ted Mann & Alejandro Lazo, *Trump Administration Revokes \$929 Million for California High-Speed Rail*, WALL ST. J. (May 16, 2019), <https://www.wsj.com/articles/trump-administration-revokes-929-million-for-california-high-speed-rail-11558034243>.

¹⁴ DOT, ABOUT RAISE GRANTS, <https://www.transportation.gov/RAISEgrants/about> (last accessed Mar. 8, 2024).

¹⁵ FRA, FY 2022 CRISI PROGRAM SELECTIONS: PROJECT SUMMARIES, at 2 (Sept. 25, 2023), https://railroads.dot.gov/sites/fra.dot.gov/files/2023-09/FY%202022%20CRISI%20Program%20Selections%20-%20Project%20Summaries_PDFa.pdf.

¹⁶ FRA, FY22–23 Federal-State Partnership for Intercity Passenger Rail Program Selections (Nov. 20, 2023), <https://railroads.dot.gov/sites/fra.dot.gov/files/2023-12/FY22-23%20FSP%20%28National%29%20Project%20Summaries-Map.pdf>.

¹⁷ FRA, Notice of Funding Opportunity for the Federal-State Partnership for Intercity Passenger Rail Program, 87 Fed. Reg. 75119 (Dec. 7, 2022), <https://www.federalregister.gov/documents/2022/12/07/2022-26610/notice-of-funding-opportunity-for-the-federal-state-partnership-for-intercity-passenger-rail-program>.

¹⁸ Letter from Chair Thompson, California High-Speed Rail Peer Review Group, to California Lawmakers (Mar. 8, 2024), <https://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/HSR%20PRG%20Letter%202024%20Business%20Plan.pdf>.

limit project risk.¹⁹ The prognosis for the full system is bleak, with an unfunded gap as high as \$99 billion.

DOT grant programs provide valuable funding for critical infrastructure projects across the country for our constituents, yet funding is not available for every project. As such, DOT must ensure funding goes to the most viable and effective projects. DOT itself states that its project review process must “help ensure that taxpayers are getting the highest value for every dollar invested.”²⁰ It is unclear if DOT complied with its own guidance to safeguard taxpayer dollars when selecting CHSRA for such a large amount of grant funding. As such, many other cost effective and worthy projects may have lost out on this funding in favor of CHSRA. Accordingly, DOT’s recent refusal to provide the Senate documents regarding the evaluations of applications, which could shed light on the relative merits of non-selected projects, compounds existing concerns.

The Standing Rules of the Senate provide the Committee on Commerce, Science, and Transportation the authority to “review and study” transportation, including railroads, “on a continuing basis.”²¹ The Rules of the House of Representatives provide the Committee on Transportation and Infrastructure authority over “Transportation, including . . . railroads.”²² Therefore, we request an in-person briefing with Committee staff to gain further insight into DOT’s justification for continuing to fund the California High-Speed Rail project. At the briefing, please be prepared to discuss:

- a. DOT’s evaluation of the issues facing CHSRA, including but not limited to the level of risk associated with the unbid, technically challenging elements of the project, including tunnels and viaduct;
- b. The low ridership projected for the Merced-to-Bakersfield segment;
- c. The remaining gap in funds needed for completion of the Merced-to-Bakersfield segment, even after the recent awards of more than \$3 billion;
- d. The lack of an independent review of the economic and financial justification for the project, as noted by the Peer Review Group; and
- e. The large gap in funds needed for completion of at least the Phase I segment from San Francisco to Los Angeles; and
- f. DOT’s plans to address the issues raised by the CHSRA IG and Peer Review Group prior to obligating funds to CHSRA.

¹⁹ Written Testimony of Benjamin Belnap, Inspector General of the CHSRA, to California Senate Committee on Transportation (Mar. 12, 2024), <https://stran.senate.ca.gov/sites/stran.senate.ca.gov/files/OIG-HSR%20Business%20Plan%20Testimony%20for%20Senate%20Transportation%20Committee.pdf>.

²⁰ About RAISE Grants, *supra* note 14.

²¹ S. Rules XXV(1)(f), XXVI(8)(a)(2).

²² H. Rule X(1)(r)(20).

In addition to the requested briefing, please also provide the following documents and information, which are essential to assist us in our oversight related to California High-Speed Rail, as soon as possible but no later than 5:00 p.m. ET, June 12, 2024:

1. A copy of all grant applications received by DOT for projects related to California High-Speed Rail since September 2022.
2. All documents and communications referring or relating to the evaluation of the applications specified in 1, including but not limited to evaluation of benefit-cost analysis.
3. All lists of project ratings, for all applications, submitted to the relevant senior review teams for the grant cycles that resulted in the September 2023 CRISI awards and December 2023 Fed-State (non-Northeast Corridor) awards.
4. All documents and communications referring or relating to DOT's plans to withhold further funding for California High-Speed Rail, including any unobligated portions of announced grant awards, until CHSRA resolves the issues raised by its IG and the Peer Review Group.

With regard to the Committee on Transportation & Infrastructure of the House of Representatives, this request and any documents created and Infrastructure as a result of this request will be deemed congressional documents of the Committee. An attachment contains additional instructions for responding to this request. When producing documents to the Committees, please deliver production sets to the Majority Staff in Room 2165 of the Rayburn House Office Building; Minority Staff in Room 554 of the Dirksen Senate Office Building; and the Minority Staff in Room 2164 of the Rayburn House Office Building.

Thank you for your prompt attention to this matter.

Sincerely,



Ted Cruz
Ranking Member
Committee on Commerce,
Science, and Transportation
United States Senate



Sam Graves
Chairman
Committee on Transportation
and Infrastructure
U.S. House of Representatives