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February 23, 2022

The Honorable Gavin Newsom
Governor, State of California
1021 O Street, Suite 9000
Sacramento, CA 95814

Dear Governor Newsom:

The High-Speed Rail Authority released its *Draft 2022 Business Plan* on February 8, which attempts to make the case in support of your request that the Legislature appropriate \$4.2 billion for high-speed rail construction in the 2022-23 budget. This Business Plan fails to provide realistic budget numbers resulting in a lack of confidence the public has with the administration of this project.

Candidly, there are more important priorities in the state than the high-speed rail. We have an exploding homelessness crisis, uptick in crimes, drought and water storage shortage, housing affordability emergency, supply chain challenges, tax burden on individuals and small businesses, and the list is endless.

Voters were promised that the cost to complete the High Speed Rail from Los Angeles to San Francisco would cost \$33 billion. It is now estimated to be up to \$105 billion and climbing.

Despite all the grandiose promises outlined in the Business Plan, we can all agree that a project left unfinished and abandoned provides no benefits—zero ridership, zero emissions reductions, and zero economic impact. Unfortunately, without drastic and urgent changes, this is how the project is doomed to end, hence wasting billions of precious taxpayers' dollars. Therefore, Assembly Republicans cannot support the appropriation for these reasons stated below.

1. **No budget provided.** The draft Business Plan provides no budget for completing the work that is already underway or scheduled to begin this year. Instead, the adoption of a budget is “deferred pending action by the Legislature” on the \$4.2 billion appropriation.¹ This is backwards. As the Governor, it is your job to propose a budget. As the Legislature, it is our job to decide whether to fund it.
 - **Without a budget, costs are unknown.** The Business Plan bases the cost of completing current construction work (119 miles between Madera and Shafter) on the last adopted budget. However, the plan acknowledges this old budget is obsolete. It does not fully

¹ Draft 2022 Business Plan (BP) p. 41

account for large “commercial settlements” that must still be signed with the contractors to compensate for the Authority’s continued delays, or large changes to these contracts that still must be added in order to “accommodate all remaining scope,” or the actual cost of laying tracks.² It also does not fully account for the cost of relocating utilities, acquiring additional right-of-way, and signing necessary agreements with third parties.³ The Business Plan tells us only that completing this work will cost *at least* \$13.9 billion.⁴ Considering the cost of this segment was originally estimated at \$6 billion,⁵ it is impossible for us to guess how high the price tag will climb.

- **The bottom line:** The Business Plan effectively tells the Legislature, “provide us the money first and then we’ll tell you how we plan to spend it.” This is unacceptable. The final Business Plan must include a full and complete updated program budget adopted by the Authority.

2. **Proposal is not affordable.** The Business Plan proposes to extend current construction (119 miles between Madera and Shafter) north to Merced and south to Bakersfield, and begin high-speed train service along this 171-mile segment. The plan asserts that available revenue is “enough to get a high-speed rail corridor started in the Central Valley.”⁶ We respectfully disagree. Even the starting cost figure presented in the Business Plan for this segment (\$22.3 billion⁷) *already* exceeds the midpoint revenue estimates (\$22.2 billion⁸). For the reasons below, however, the disparity between costs and revenues is actually far greater than this.
 - **Cost of current construction will be higher.** The Merced-Bakersfield cost estimate includes the cost of completing the 119-mile Madera-Shafter segment currently under construction. The absence of a budget means that cost estimates for this segment are incomplete and unreliable. The ultimate cost will almost certainly be significantly higher than \$13.9 billion.
 - **Cost of future construction will be higher.** To complete this segment, current construction must be extended north to Merced and south to Bakersfield, and electrified track must be installed. The cost estimates provided are very preliminary based on minimal design. The Business Plan notes that based on typical cost estimates for this level of design, cost projections for the Merced and Bakersfield extensions could be off by as much as 50% and cost projections for track work could be off by as much as 100%.⁹
 - **Inflation assumptions are wrong.** All of the cost estimates for current and future construction remain essentially unchanged from the 2020 Business Plan, and assume an inflation rate of 2.25% between 2019-20 and 2024-25.¹⁰ Inflation is currently at more

² BP p. 6

³ BP p. 18

⁴ BP p. 71

⁵ 2012 Business Plan p. 3-2

⁶ BP p. v

⁷ Draft 2022 Business Plan: Capital Cost Basis of Estimate Report (CCBOER) p. 4

⁸ BP p. 43 (NOTE: Excludes “best case” revenue estimate)

⁹ CCBOER p. 9

¹⁰ CCBOER p. 13

than three times this amount. The Business Plan acknowledges that inflation is “leading directly to increased construction costs,”¹¹ but the plan fails to account for these costs.

- **Scope of project will be larger.** Major elements of the project have been deleted from cost estimates. This makes the segment appear less expensive than it will actually be. For example, the estimate includes only a single track, eliminates almost all station construction, and omits the cost of relocating the station in Merced to co-locate with Amtrak and Altamont Corridor Express (ACE) trains. Adding these necessary elements back later will increase the cost.
 - **Misleading and unrealistic “best case” revenue scenario.** The Business Plan includes a new optimistic revenue scenario that takes higher than average cap-and-trade revenues projected by the Legislative Analyst’s Office (LAO) for 2021-22 and 2022-23,¹² and simply assumes these revenues will continue through 2030. The Authority then tags this scenario as the “LAO Base Forecast.”¹³ We believe it is highly misleading to attribute this scenario to LAO. LAO has consistently noted that cap-and-trade revenues are “volatile” and “unpredictable,”¹⁴ and LAO does not endorse extrapolating beyond their forecast window.
 - **Federal funding picture remains uncertain.** The Business Plan assumes that federal funding will compensate for the deficiencies identified above. This funding is subject to substantial uncertainty. The Infrastructure Investment and Jobs Act contains no dedicated funding for high-speed rail. We do not know the amount of funding high-speed rail will be awarded or the restrictions on how it can be used. Until these questions are answered, it is premature to assume that federal funds will be anywhere close to what is needed to make Merced-Bakersfield affordable.
- **The bottom line:** The Business Plan proposal to build a high-speed rail line between Merced and Bakersfield starts with no wiggle room between projected costs and revenues. There is no confidence that the segment can be completed without a substantial taxpayer bailout. The final Business Plan must hit pause on all proposed work beyond the first 119 miles until the Authority can demonstrate its plan is affordable.

3. **Project is less than meets the eye.** The Business Plan takes important pieces of the project and defers them to some point in the future. This sleight of hand allows cost elements to be taken off the books, making cost projections appear stable even as construction costs rise. However, this practice is not a reasonable or transparent solution to deal with cost overruns. The elements cannot actually be deferred without creating major sacrifices for the project, and the plan does not adequately disclose what has been lost.
- **Only a single track.** The 2020 Business Plan proposed constructing Merced-Bakersfield with only a single track. Deleting the second track saves over \$1 billion from the project cost. However, the 2022 Business Plan gives the impression that the Authority is “eliminating consideration of a single-track option,”¹⁵ when this is not actually the case.

¹¹ BP p. 61

¹² <https://lao.ca.gov/Publications/Report/4480>

¹³ BP p. 43

¹⁴ <https://lao.ca.gov/handouts/resources/2021/The-2021-22-Budget-Cap-and-Trade-Expenditure-Plan-021021.pdf>

¹⁵ BP p. 1 & p. 23

In reality, the plan still “assumes a phased-track approach, where initially the trains would operate on a single track.”¹⁶

- **Test track with no trains to test.** The 119-mile segment currently under construction between Madera and Shafter will not operate passenger service, but is intended to serve as a test track for high-speed trains. However, the Business Plan deletes train procurement from this phase of the project.¹⁷ This shifts \$390 million from the cost, but inexplicably results in a test track with no trains to test. The plan acknowledges these trains are not optional and are “necessary to satisfy program objectives,”¹⁸ but provides no explanation for how this will happen. The plan merely declares that “it is assumed” trainsets will somehow materialize.¹⁹ A business plan must be based on more than a genie’s magic lamp.
 - **Stations stripped down to bare bones.** The Business Plan proposes constructing Merced-Bakersfield without stations, instead including only “platforms and canopies and very minimal land-side infrastructure (i.e., no buildings).”²⁰ The plan is particularly misleading on this point, because it includes not one, but two full-page color pictures of what the completed Fresno Station would look like.²¹
 - **No connections in Merced.** The Business Plan promises that the terminus in Merced will link “high-speed rail service to various urban and regional providers at one location.”²² Unfortunately, the Authority omits the cost of achieving these connections in the Business Plan. Instead, the plan would fund a Merced-Bakersfield segment that ends 0.5 miles from Amtrak and Altamont Corridor Express (ACE) trains, forcing passengers to walk or take a shuttle.
- **The bottom line:** The final Business Plan must be honest about what is included and what has been jettisoned to cut costs. Furthermore, it is non-negotiable that the program baseline budget must include two tracks from the start and fully deliver on promises for a completed Fresno Station. It is not acceptable to leave work in Fresno only partially completed before moving on to other segments.
4. **No schedule provided.** The Business Plan provides no schedule for completing current construction work (119 miles between Madera and Shafter). Because the rest of the plan hinges on this backbone segment, the lack of a schedule is a critical omission.
- **Red flag for track contract.** The Authority is preparing to sign a contract later this year to lay track and other systems on top of the civil works that are currently under construction.²³ The contract will require sections of civil works to be handed off to the track contractor as they are completed. The lack of a schedule makes it impossible to choreograph this hand-off, and will lead to delays that further drive up cost.

¹⁶ CCBOER p. 6

¹⁷ CCBOER p. 18

¹⁸ CCBOER p. 18

¹⁹ CCBOER p. 35

²⁰ BP p. 22

²¹ BP p. 23 & p. 40

²² BP p. 17

²³ BP p. 65

- **The bottom line:** The current construction segment was originally scheduled for completion five years ago. The final Business Plan must provide a firm schedule that all contractors are obligated to meet, and delay the track and systems procurement until this is accomplished.

5. **Lack of transparency and accountability.** When voters in 2008 approved the Proposition 1A Bond Act for high-speed rail, the proposed project between San Francisco and Los Angeles/Anaheim was estimated to cost \$34 billion and be completed in 2020. Today, the cost of that promise has tripled, the schedule is delayed by 13 years, and funding is short by \$60-\$80 billion. Since construction began in 2013 between Madera and Shafter, costs on that segment have risen by at least 130 percent and completion has been delayed by nine years. It is disappointing that this Business Plan provides the public with no program budget to reveal when the work will be completed or how much it will cost. Without substantial reform to project oversight, costs will continue to rise and delays will continue to mount.
 - **Change orders.** Since construction began in 2013, there have been more than 900 change orders on the three major construction contracts. Approximately 550 of these change orders have been executed under your administration. While a brief summary of each change order is posted online, it is impossible for us to determine how many change orders are in the pipeline. We believe the value of pending change orders submitted by contractors may be in the billions of dollars. It is critically important that we have a full accounting of these change order proposals in order to estimate the state's risk exposure.
 - **Governance.** The project is governed by an 11-member board of directors. This board is staffed by the Authority's management and is responsible for project oversight. At the direction of the Authority's management, the board has delegated all of its approval authority for contract change orders and time extensions to the Authority's management.²⁴ As a result, oversight over change orders is reduced to a brief board notification. For example, at the most recent Authority board meeting on February 17, Authority management disclosed \$290 million in change orders, settlements, and time extensions in a three-minute presentation at the end of a three-hour board meeting.²⁵ There was no discussion, no questions, and no vote. We believe that governance on this project is broken.
 - **Transparency.** One of the consequences of the Authority delegating powers to Authority management is a loss of transparency. Issues that were once discussed in public board meetings have been shifted to closed internal committees staffed by Authority management and consultants. There are now six of these internal committees that review essential aspects of program oversight. The Business Plan describes the two most recently established committees—An Enterprise Risk Committee to “review, discuss and monitor action plans on the Authority's top risks,”²⁶ and a Change Control Committee to “bring more rigor to decision-making and more consistency to documenting the change order process.”²⁷ It is not acceptable that key discussions about the project's budget and risks are being held in secret. We therefore request that you open these meetings so the public and Legislature can participate.

²⁴ See High-Speed Rail Authority Board Policy HSRA11-001, as amended September 23, 2021.

²⁵ <https://hsr.ca.gov/about/board-of-directors/ceo-report/>

²⁶ BP p. 56

²⁷ BP p. 5

- **The bottom line:** In your first State of the State address more than three years ago, you addressed high-speed rail, declaring that “there’s been too little oversight and not enough transparency,” and you promised that “we’re going to hold contractors and consultants accountable to explain how taxpayer dollars are spent.”²⁸ We believe that this situation has not improved. The final Business Plan must therefore outline fundamental reforms to project oversight, transparency, and governance that are necessary to bring costs and schedule under control.

We are disappointed that the Assembly will not hold an in-depth hearing on the Business Plan to discuss our concerns outlined above, but we welcome the opportunity to work with you on revising this proposal and delivering the best possible value for taxpayers.

Sincerely,



Vince Fong
Vice Chair, Assembly Budget Committee



James Gallagher
Assembly Republican Leader



Marie Waldron
Assemblymember, District 75



Frank Bigelow
Assemblymember, District 5

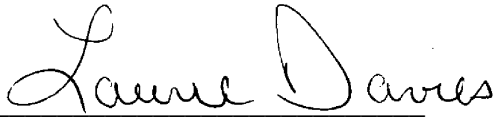


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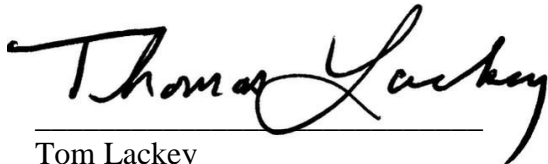
²⁸ <https://www.gov.ca.gov/2019/02/12/state-of-the-state-address/>



Laurie Davies
Assemblymember, District 73



Thurston "Smitty" Smith
Assemblymember, District 33



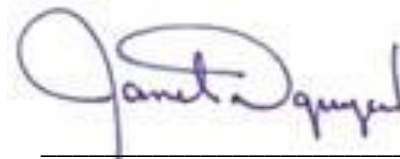
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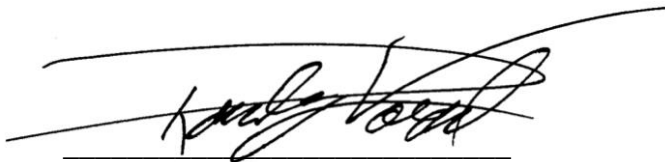
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cc: Assemblymember Laura Friedman, Chair, Assembly Transportation Committee
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Senator Patricia Bates, Vice Chair, Senate Transportation Committee
Assemblymember Phil Ting, Chair, Assembly Budget Committee
Senator Nancy Skinner, Chair, Senate Budget Committee
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