

Summary: “FAST Act Implementation: State and Local Perspectives”

House Subcommittee on Highways and Transit

Witnesses:

- Mr. J. Michael Patterson, Executive Director, Oklahoma Department of Transportation; on behalf of the American Association of State Highway Transportation Officials (AASHTO)
- Mr. Gary Thomas, President and Executive Director, Dallas Area Rapid Transit; on behalf of the American Public Transportation Association (APTA)
- The Honorable Kasim Reed, Mayor of Atlanta, Georgia; on behalf of the United States Conference of Mayors (USCM)

Opening Statements:

Subcommittee Chairman Graves (R-MO) began his opening statement by praising state and local officials in Atlanta for their timely response to the I-85 bridge collapse and applauding the U.S. Department of Transportation (USDOT) for their quick release of emergency funds. He then applauded the Fixing America’s Surface Transportation (FAST) Act as the first long term surface transportation bill in a decade, calling it a forward looking law that provided funding so nonfederal partners can make smart investments.

Subcommittee Ranking Member Norton (D-DC) opened by noting that the potential of a large infrastructure package is on the minds of many. She expressed disappointment that the FAST Act was shortened from a six year bill to a five year bill, noting that you cannot have a great country unless you continuously invest in infrastructure. She said the U.S. faces a serious funding shortfall in the Highway Trust Fund (HTF) over the next decade if we continue to use FAST funding levels, which is why the Ranking Member was pleased when President Trump indicated an interest in investing. However, Ranking Member Norton was disappointed to see that the Skinny Budget made cuts to transportation funding programs but noted it is very unlikely that such cuts will make it through the appropriations process. The Ranking Member expressed a concern over too much reliance on private capital and financing, arguing that it would end up making projects more expensive than traditional forms of investment. She called on Congress to create a dedicated funding stream and not to rely solely on public-private investments (P3s). She also criticized Secretary Chao’s comments that permit reform is more important for transportation projects than funding. Ranking Member Norton said that only four percent of all infrastructure projects undergo any rigorous environmental review; instead 90 percent of projects receive categorical exclusion and are exempt from rigorous levels of review. She added that some streamlining measures introduced in the FAST Act are actually slowing down the USDOT’s ability to implement the project delivery changes made in MAP-21. Piling streamlining measures on top of one another before they can be implemented does not help any processes.

Committee Ranking Member DeFazio (D-OR) began by noting that the U.S. has \$836 billion in capital investment needs for highways and bridges but that we have not increased the user fee in a quarter of a century. 17 states have raised the gas tax and no one has been recalled or lost their election because of it. Ranking Member DeFazio argued that raising the gas tax should not be controversial and informed the Subcommittee he sent Secretary Chao a letter urging USDOT to work with Congress to create consensus around real investment for infrastructure. Ranking Member DeFazio addressed various alternative funding streams, including P3s, infrastructure banks, and private tax credits. He noted that P3s are traditionally huge projects, usually costing \$1 billion or more, that must be tolled or use some other mechanism to recoup the investment. The Ranking Member said that, generally, P3s contain five to one private money to public money. He added that Speaker Ryan wants the ratio to instead be 40 to one and argued that no company would be willing to put up that much of the money. As for infrastructure banks and private activity bonds, Ranking Member DeFazio argued they again require a revenue stream and risk increasing the cost. He disagreed with the idea that permit streamlining will fix everything, emphasizing that all the provisions created by both MAP-21 and the FAST Act have not yet been implemented. He applauded many of the policies and programs in the FAST Act and noted that Congress does not have to rewrite them, but that it just needs to find a revenue stream.

Mr. Patterson, executive director of the Oklahoma Department of Transportation, began his opening statement by telling the Subcommittee that he was also there to testify on behalf of the American Association of state Highway Transportation Officials (AASHTO). He said State Departments of Transportation (DOT) continue to seek opportunities and solutions for the transportation system and that additional funding is important but is only a partial solution to the problem. He applauded the FAST Act for its timeliness and for its policy reforms but urged Congress to continue to reform to improve efficiency and the effectiveness of project delivery. Mr. Patterson called for a modern, innovative revenue model for funding investments as a consumption tax could be nearing its end, indicating that the instability of the HTF is only expected to increase and could lead to serious cash flow problems in states. He added that most transportation projects cannot generate enough revenue or provide a high enough return on investment to interest the private sector. He encouraged future revenues to flow through the FAST Act structure instead of an untested approach.

Mayor Reed, Mayor of Atlanta, Georgia, provided some background on the city's and the state's recent transportation measures. He told the Subcommittee the state of Georgia raised its own gas tax to provide \$1 billion annually in bridge and road repairs. Atlanta recently passed a tax that will raise money for infrastructure projects as well. Atlanta has benefited from its investments in transportation and transit, with its credit rating greatly increased and many businesses responding positively to the improvements by moving to the city and creating more jobs. Mayor Reed asked that Congress consider the investments local communities have made in transportation projects and put those municipalities at the front of the line when giving out federal support.

Committee Chairman Shuster (R-PA) told the Subcommittee they should pay very close attention to how quickly I-85 in Atlanta is rebuilt as the incident is something the entire network can learn from. The Chairman informed the Subcommittee he just came from a meeting with Secretary Chao, during which she spoke about the potential infrastructure bill and how important it is to the President. He added that P3s will be a tool but not the entire tool box and called on Congress to explore how to fully unleash the private dollar.

Question & Answer:

Congressman Barletta (R-PA) asked how uncertainty in long term funding has impacted transportation projects in states, specifically referring to the fact that the FAST Act expires in 2021. **Mr. Thomas** answered that it harms the ability of agencies to finish their long range financial plans. **Mayor Reed** added that continuing resolutions are preventing certain funds from getting to states, affecting the budgets and preventing state DOTs from being able to prepare projects.

Congressman Barletta asked the witnesses to describe whether or not streamlining provisions created by the FAST Act have been implemented. **Mr. Patterson** answered that he appreciated the streamlining provisions but that the industry has not yet felt the full effects of streamlining as some rulemakings are still underway.

Congressman Barletta asked the witnesses for potential sustainable revenue streams for the HTF. **Mr. Patterson** answered that Oklahoma is currently a part of the Western Road Users Consortium which is looking at user fees. Other groups across the country are doing the same, trying to explore ways to fund transportation beyond a consumption tax. He hopes the federal government will look at states' successes and failures in this arena. **Mayor Reed** is supportive of Ranking Member DeFazio's Penny for Progress proposal. He also asked that local and state governments that are first to invest in their own transportation systems be in advanced positions for receiving federal funds.

Subcommittee Ranking Member Norton asked the witnesses if any of their states recently raised the gas tax and what, if any, consequences stemmed from that. **Mr. Thomas** responded that Texas has not raised their gas tax since 1992. However, Austin has discussed the potential of a gas tax or a vehicle miles traveled tax so it is clear they recognize the need. **Mr. Patterson** answered that Oklahoma has not raised their gas tax since 1987. However, their Governor proposed an increase this year and it is currently moving through the legislative process. **Mayor Reed** told the Ranking Member that Governor Deal, who is a Republican, raised the gas tax during a session where both the House and the Senate were Republican held. The city of Atlanta also recently passed a tax increase to fund transportation projects through a ballot measure. He said these increases showed that both urban and rural areas realize there is a need to invest in infrastructure.

Subcommittee Ranking Member Norton asked the witnesses to speak to the viability of private investments to fund transportation projects. **Mr. Patterson** answered that Oklahoma has used P3s to fund projects but that most roads cannot be built using tolls. **Mayor Reed** said that the success of P3s varies and called on Congress to focus on project models versus tax models, meaning that P3s should only be used for specific projects rather than collecting general funds through tax reform with no explicit idea of where they will be used.

Congressman Davis (R-IL) applauded the Surface Transportation Block Grant (STBG) created by the FAST Act as the most flexible formula transportation funding available to local governments and states. He asked the witnesses to speak to the importance of STBG to local communities. **Mayor Reed** answered that the funds are vital and encourage local municipalities to deal with their own infrastructure challenges. **Congressman Davis** added that he would have liked a larger increase in funding for local governments and asked Mayor Reed for suggestions as to how to further promote local control over transportation projects. **Mayor Reed** answered that holding up successful projects for municipalities to see would be useful for local governments. This clearing house would allow smaller governments to better understand how to tackle projects.

Congressman Nadler (D-NY) asked Mr. Patterson if he still thought that the 80-20 split between highway and transit funding from the HTF was the proper allocation. **Mr. Patterson** said it is appropriate and should be maintained.

Congressman Nadler asked Mr. Patterson to explain why P3s cannot generate sufficient revenue for many transportation projects, making direct federal funding essential. **Mr. Patterson** answered that in many areas there is no opportunity to toll or there is no economic way to capture the dollars generated through a certain route making P3s difficult.

Congressman Nadler noted that Speaker Ryan suggested that any infrastructure package should be 98 percent private funding with a 40 to 1 ratio between private and public sector funding. He asked if the panelists believed that would be possible. **Mr. Patterson** answered that it would most likely not work. **Mr. Thomas** answered that P3s are a tool in the tool box but that direct federal funding is needed too. **Mayor Reed** said the private market will not cover every project but would instead cherry pick projects, leaving out essential ones that might not be as attractive. He said that P3s are important but do not replace the need for federal partners. He also expressed a need to use a project model for P3s instead of a tax credit model.

Congressman Ferguson (R-GA) asked Mayor Reed to speak about local, state, and federal communication especially in regards to the recent I-85 collapse. **Mayor Reed** answered that the most important factor was the strong working relationship he has with Governor Deal. He applauded their federal partners, saying they worked quickly and efficiently to get funds out to the state.

Congressman LaMalfa (R-CA) asked Mayor Reed how federal transportation programs support local governments in terms of emergency responses and preparedness. **Mayor Reed** answered there are high levels of professionalism and coordination on that issue. He added that the levels of preparedness and resiliency are constantly changing due to increasingly extreme weather issues and that the federal and local governments are going to have to start communicating more aggressively. He also urged flexibility in responses.

Congressman Smucker (R-PA) said that infrastructure is a core function of government but that the public must be educated to ensure there is proper support for investments. He asked how support can be built. **Mayor Reed** said the public is ahead of Congress on that front and is ready to come onboard as long as government does what it says it will do with the funds.

Congressman Johnson (R-GA) asked Mayor Reed to speak a bit more about the process of increasing the gas tax in Georgia and any political fallout because of it. **Mayor Reed** answered that Georgians were sick of sitting in traffic and therefore understood why the investment was needed. He felt comfortable saying that at least 95 percent of legislators who voted for the increase won reelection and faced minimal risks resulting from their support.

Congresswoman Titus (D-NV) requested that Secretary Chao sit down with the House Transportation and Infrastructure Committee so they can work on a funding bill in a bipartisan and collaborative way

Congressman Lowenthal (D-CA) applauded the FAST Act for including dedicated freight funding programs for the first time, including the FASTLANE competitive grant program. While the FAST Act has funding for multimodal projects, a study by AASHTO and AAPA found that much more investment is needed. Congressman Lowenthal asked the witnesses if they agreed that there is a greater need for funding of multimodal projects. **Mr. Patterson** answered that absolutely, there is a need. **Mayor Reed** absolutely supported more investment in multimodal projects.

Congressman Lowenthal told the Subcommittee about a proposal he is going to introduce that would put a user fee on the cost of shipping goods, paid for by the owner of the goods, to pay for freight infrastructure. He asked the witnesses if they would support such a proposal. **Mr. Patterson** answered that AASHTO thinks that is one possible, sustainable solution. **Mayor Reed** said he would need to read the legislation but that he supports user fees in general.

Congressman Lipinski (R-IL) expressed a hope that the trillion dollar infrastructure plan will be executed, noting that freight will be critical to such a package as will transit. The Congressman spoke about vehicle to infrastructure communication technology and the need to invest in order to maximize the benefits of autonomous and connected vehicles. He asked the witnesses about the existing vehicle to infrastructure

communication technology and federal guidance. **Mr. Patterson** said that states are taking a slow, methodical approach to integrating the technology as it is changing so quickly but that the regulatory guidance that exists is helpful. **Mayor Reed** said Atlanta is developing a smart corridor, currently in its beginning stages, which will test the various available technologies but indicated that they are putting more energy in to autonomous vehicles. He asked for clear rules of the road from federal experts for the communication technology to make implementing programs easier for municipalities. **Mr. Patterson** agreed and called for collaboration and cooperation between the federal government and local governments as the technology is developed.

Subcommittee Chairman Graves adjourned the hearing.