

Summary: “Connecting America: Improving Access to Infrastructure for Communities Across the Country”

Senate Commerce Committee

Witnesses:

- The Honorable Dennis Daugaard, Governor of South Dakota
- The Honorable Philip Levine, Mayor of Miami Beach
- The Honorable Carlos Braceras, Executive Director, Utah Department of Transportation
- Ms. Shirley Bloomfield, Chief Executive Officer, NTCA-The Rural Broadband Association

Opening Statements:

Chairman Thune (R-SD) began his opening statement by emphasizing the importance of infrastructure in connecting America. He applauded the Fixing America’s Surface Transportation (FAST) Act’s safety benefits as well as its benefits in enhancing economic growth. Chairman Thune stated that a robust transportation sector allows rural states to get goods to market, as commerce does not end at state lines or national borders. An efficient transportation network allows goods to travel from the rural states in which they are produced to the more populous coasts and to places in between and boosts the competitiveness of the U.S. economy. He emphasized that infrastructure investment has bipartisan support, but Congress must fully explore funding options to ensure they remain responsible stewards of funds. Chairman Thune applauded the freight formula program created by the FAST Act, calling it appropriate and equitable for states. Beyond formula funding, the Chairman suggested bonds, tax credits and credit assistance programs but noted that while public-private partnerships work well in urban areas, they do not always make financial sense in more rural areas. He urged using P3s as a supplement not a substitute for more traditional forms of funding. The Chairman concluded his opening statement by calling on Congress to support existing programs, like the freight formula program, and to address regulatory and permitting requirements that create unnecessary hurdles.

Ranking Member Nelson (D-FL) told the Committee that the President emphasized the need for a \$1 trillion investment in infrastructure during his address to a joint session of Congress on February 28, a promise that President Trump originally made during his candidacy. Senate Democrats have introduced a bill that calls for such an infrastructure investment in response, demonstrating this is a bipartisan issue. The nation’s current transportation system is under strain, which will only increase as the population increases. Ranking Member Nelson noted that some projects can be funded through private sector investments, should they be given the proper tax incentives, but emphasized P3s cannot address all infrastructure needs. He asked the Committee and witnesses to give thought as to how an infrastructure investment will be paid for and what should be prioritized.

Governor Daugaard of South Dakota used his opening statement to give a rural perspective on surface transportation. Federal investment in transportation in rural states benefits the U.S. as a whole by enabling agricultural products, energy products, and natural resources to move from their points of origin to the coasts and international markets. He added that rural roads allow access to American tourist sites which generate millions in tourism dollars. Governor Daugaard called for investment in rural infrastructure but added that P3s are not a solution for rural states because, even after supplementing revenues with tax credits, the low traffic volumes on the sprawling roads in rural states do not generate enough income to incentivize private investment. He requested that Congress focus on formula funding and praised the FAST Act for creating a balanced surface transportation initiative. He also called for the strengthening of the Highway Trust Fund (HTF) to ensure it will remain funded beyond 2020. Governor Daugaard also called on Congress to pass an appropriations bill for fiscal year 2017 (FY17) as the continuing resolution (CR) is denying states of money and improvements created by the FAST Act. He also reported that many rural states feel they are underserved on the draft Multimodal Freight Network created by the U.S. Department of Transportation (USDOT) and that stakeholders, including AASHTO, are calling portions inadequate.

Mr. Braceras, Director of the Utah Department of Transportation, began his opening statement by describing Utah as a state with a great deal of rural land, but the state's population primarily resides in urban environments. He noted that the Interstate and National Highway System are critical in connecting rural areas. Mr. Braceras told the Committee the movement of freight helps to ensure the economic vitality of the country and he said it is critical that our goods movement system is accessible and well maintained. He noted the agricultural, ethanol, and energy industries rely on the transportation system to get their goods to market and that the same system gives people access to national parks. He encouraged the continued use of a formula based structure in funding, praising the one currently in place, as direct funding rather than financing mechanisms can be used in every state. He applauded the FAST Act as well as The Moving Ahead for Progress in the 21st Century Act (MAP-21) for the improvements they have made but added that Congress must now build upon them. Specifically he encouraged Congress to simplify the National Environmental Policy Act (NEPA) application process, including the environmental review, consultation and approval. He also asked that Congress ensure the performance measures created by the FAST Act and MAP-21 be implemented prior to introducing any new regulations and called for consistency across state lines in regulations.

Mayor Levine, Mayor of Miami Beach, Florida, used his opening statement to focus on three topics to improve infrastructure. First, he called on Congress to increase focus on resiliency to ensure infrastructure built today will last for generations and will stand up to any changes in climate or water levels. He also encouraged Congress to address connectivity between metropolitan areas, noting that cities cannot do this alone and need federal partnership. Finally, Mayor Levine asked Congress to work to accelerate and simplify the review process by expediting funding and permitting. He applauded the Senate Democrat's plan for infrastructure investment and the jobs it will create.

Question & Answer:

Chairman Thune (R-SD) asked Governor Daugaard to elaborate on his statement about the advantages of a formula program. **Governor Daugaard** responded that formula programs balance urban and rural needs and allow the state to prioritize projects. He added that discretionary funding measures are more difficult for rural states because their project might not meet the size limits or be able to compete. He also noted that a system is already in place for formula funding so it would be easy to quickly deploy new funds.

Chairman Thune then asked Mr. Braceras what the Federal government can do to promote innovation for safety on the transportation system. **Mr. Braceras** responded that new technology has created many new opportunities and that new connective technology can help prevent human error. He asked that the federal government work with state governments to facilitate partnerships.

Ranking Member Nelson (D-FL) asked Mayor Levine to speak to the importance of investing in infrastructure now for the future. **Mayor Levine** said we should be investing on behalf of future generations and that funding infrastructure projects is truly making an investment for the long term. He added that many mayors have an inability to break through the federal government regulations and processes and therefore end up not being able to leverage federal funds for projects they want to move forward. Mayor Levine asked that Congress simplify the federal process so it is easier for local communities to utilize federal funds because while P3s are great in some situations they do not work for all projects.

Senator Blunt (R-MO) asked what obstacles should be removed for small states and local governments to have a better chance at success in various federal funding programs. **Governor Daugaard** answered the FAST Act helped to improve the processes but the lack of funding for FY17 is standing in the way of some of those improvements being implemented. He also expressed concern shared by small states that an infrastructure funding bill would use only P3s which, due to low traffic volumes on rural roads, do not work well for rural areas. He requested the formula methodology be retained and advocated for a stable HTF funding source. **Mr. Braceras** echoed the Governor's comments and added that there are many regulatory hurdles to delivering projects. He told the Committee that Utah uses an exchange program where local governments will give the state its federal dollars in return for state funds at a lower exchange rate so the local government does not have to deal with the federal requirements. He noted that it is extremely hard for a local government to deal with the burden many federal regulations impose on them. **Governor Daugaard** added that South Dakota has a similar system in which they relieve local governments of federal regulatory requirements. The state gives local governments less money than they would receive from the federal government but the local governments prefer it because they are relieved of the federal burden.

Senator Blunt told the Committee and witnesses that Congress has already done some work to improve permitting to expedite highway construction and rail construction but then asked the witnesses how the current process holds back projects that otherwise are ready to be completed. **Mr. Braceras** said there are enhancements that can be made at the policy, regulatory, and statutory levels to improve the process, including dealing with duplicative rules. **Mayor Levine** added that many of the regulations create needless obstacles and overburden local governments. He asked the Committee to work with more local governments when trying to address the issue.

Senator Inhofe (R-OK) asked if there are opportunities to streamline project delivery with specific regard to the Endangered Species Act. **Mr. Braceras** said that there are many species on the endangered list that complicate the permitting process but that very few ever get taken off. In general, he requested that the states are consulted and involved in any permitting process. He also requested that marginally nonattainment and maintenance areas be excluded from conformity.

Senator Fischer (R-NE) spoke briefly about her Build USA Infrastructure Act as a potential way to reduce regulatory burdens on states. She then asked Mr. Braceras about the benefits Utah has gained by assuming the federal NEPA process for transportation projects. **Mr. Braceras** responded that he is very excited about this new responsibility as it gives the state more power in making decisions. However, he added that the process to assume those responsibilities was extremely long and could be improved.

Senator Moore Capito (R-WV) suggested that states create best practices when dealing with regulatory issues to make the future processes easier. She then asked how the private sector investment part of a potential infrastructure package could be problematic for rural areas and how that could be dealt with, whether through bonds by states to match dollars or through federal funding. **Governor Dugaard** said P3s do not work well in rural areas as they do not have the traffic volumes to generate the pay back. He added that tax credits won't work alone. The Governor suggested continuing to use direct formula funding and cementing the FY17 budget to get funding to the states. **Senator Moore Capito** added that giving more money in a lump sum would allow more flexibility to states.

Senator Young (R-IN) encouraged the Committee to consider additional funding opportunities for the HTF to avoid the use of general fund transfers in the future. He asked Mr. Braceras his opinion on Congress forming an independent commission to develop a national strategic plan for transportation investment and related revenue adjustment. **Mr. Braceras** responded that commissions of that type in the past have been successful. He recommended the HTF be tied to a user based revenue source, like the current system used for utilities. He suggested a user charge program or a vehicle miles traveled program as specific solutions to the decreasing dependence on gas.

Senator Markey (D-MA) asked Mayor Levine about the importance of resilience in infrastructure. **Mayor Levine** answered that resilience is essential and that Miami Beach has been taking steps to ensure it

with its own funding because of the confusion over federal burdens. He encouraged Congress to include resiliency in any infrastructure bill.

Senator Johnson (R-WI) asked the witnesses to discuss how to hold the government accountable so the funds of any infrastructure investment bill are used properly. **Governor Daugaard** answered that giving block grants to the states would be a good solution as states can be trusted to do what is in the best interest for their citizens. He also added that P3s are successful in some areas, like in urban areas or for broadband investment projects, but for the most part do not work in rural areas. **Mr. Braceras** answered that trust is extremely important and also encouraged more control at the state level. He requested for the branches and silos of government to communicate more to ease confusion. **Mayor Levine** answered that project should be run from the ground up, not from the top down. He suggested letting the state have more of the funds.

Senator Blumenthal (R-CT) asked about the use of limited funds for infrastructure projects over the use of the funds for a potential border wall. **Mr. Braceras** answered that the government should establish goals and prioritize them. He added that infrastructure is critical for the United States. **Mayor Levine** responded that infrastructure is essential and that walls should be built to stop water from coming in because of rising tides. **Governor Daugaard** said states do a better job of spending the dollars available and should therefore be allowed more autonomy in how those funds should be prioritized.

Senator Sullivan (R-AK) told the Committee that he will be introducing the Rebuild America Now Act which will focus on federal government permitting reform. He asked the witnesses if they had additional ideas that should be included in the bill. **Mr. Braceras** answered that there is very little incentive for federal agencies to take a risk in the permitting process which can lead to extremely long delays. He requested that more deference be given to the lead agencies. **Mayor Levine** asked that Congress take the handcuffs off and let states and cities move forward with projects as fast as possible by moving more responsibilities to the state and local levels. **Governor Daugaard** again spoke about the exchange program that local governments use to avoid having to deal with federal regulations. He requested that Congress make the process easier for small communities.

Chairman Thune (R-SD) concluded the hearing.