

Summary: “Examining the Administration’s Infrastructure Proposal”
House Transportation and Infrastructure Committee

March 6, 2018

Participants:

- The Honorable Elaine Chao, Secretary, United States Department of Transportation

Opening Statements

Chairman Shuster (R-PA) said he was encouraged by the President’s focus on infrastructure investment and emphasized that it is the duty of the Federal government to invest in infrastructure. He added that state and local participation in investment is also critical for a robust national transportation system. He said he was pleased about the permitting provisions included in the Moving Ahead for Progress in the 21st Century (MAP-21) and Fixing America’s Surface Transportation (FAST) Acts but noted that around 50 percent of those have yet to be finalized. Chairman Shuster acknowledged that it still takes too long for projects to move forward and that more must be done to streamline the permitting process. He emphasized that any infrastructure bill must have bipartisan support and urged all parties to be realistic about needs and how they will be funded. He said that fixing the Highway Trust Fund (HTF) shortfall must be the starting point of any infrastructure bill, noting that many states have already raised their own gas taxes and have not experienced political fallout.

Vice Ranking Member Esty (D-CT) expressed disappointment with the plan. She emphasized that an essential part of any package will be how it is paid for and called for sustainable investment. She emphasized four main points necessary for any infrastructure bill. First, any package should contain Federal funding. She called for \$1 trillion in direct Federal investment and criticized the \$200 billion proposed investment as being inadequate to address the many different types of infrastructure addressed in this plan. She added that the Administration also proposed cutting existing funding by \$168 billion, leading to very little, if any, new Federal funding. She lamented the missed opportunity in the tax bill to address the long-term funding insolvency of the HTF and said Congress must come up with a solution in this bill. Second, Vice Ranking Member Esty criticized the selling of public assets as a solution to funding issues. She noted that public-private partnerships (P3s) are not adequate to solve the funding crisis and added that they may not work for a vast majority of surface transportation projects. She emphasized the Federal role in infrastructure investment. Third, Vice Ranking Member Esty said the Administration cannot streamline its way out of underinvestment and noted that 90 percent of projects already have exemptions to permitting provisions, with only around 4 percent requiring an extended environmental impact statement. Of those that require such a statement, most are completed in less than four years. She said Congress has already passed extensive legislation to expedite the permitting process and while more may need to be done, the proposed reforms are not necessarily the answer. Fourth, she said the plan should work with existing Federal programs. She said that while the Administration argues that they are giving the power back to the states and localities, 80 percent of the proposed funding will be distributed through federally run grant programs. She suggested the money be directed through existing programs to ensure investments result in the best projects possible. She added that Ranking Member DeFazio (D-OR) included a provision in the FAST Act that would allow Congress to use any additional funding deposited into the HTF right away, without having to take further action.

Secretary Chao said that infrastructure is the backbone of a world class economy and is essential for growth. She noted that the poor current state of infrastructure is hurting Americans. Secretary Chao said that 12 agencies have been working with the White House to develop this infrastructure plan, which is designed to change how infrastructure is built, financed, and maintained in the U.S. The plan is intended to stimulate at least \$1.5 trillion in investment with a minimum direct Federal investment of \$200 billion. The plan is based on four guiding principles: 1) using Federal money as seed money to incentivize investment for other sources; 2) addressing rural infrastructure needs; 3) streamlining the permitting process; and 4) reducing overly burdensome regulations. She said it is also intended to empower decision making at the State and local level. Secretary Chao said the plan encourages private sector investment but the Administration acknowledges that different regions require different solutions. She called for private sector investments to be allowed where appropriate.

Question and Answer

Vice Ranking Member Esty asked how the Administration's proposal, which creates new programs administered at the Federal level, squares with the Administration's statements that it is looking to empower decision making at the state and local level. **Secretary Chao** said state and local communities will decide which projects to prioritize in these programs, giving them a great deal of authority.

Vice Ranking Member Esty expressed concern with the limited Federal investment. She said states and localities already provide a majority of funding and asked why the Federal government is looking to further burden them. **Secretary Chao** said U.S. roads and bridges are already decentralized, with only 10 percent (the Interstates) owned by the Federal government and only 20 percent funded by the Federal government. She said the Administration plans to work with Congress to develop payfors and is willing to consider all options.

Chairman Shuster said that payfors for this program are critical and pointed out that the gas tax is actually a user fee, not a tax. Additionally, he disputed the argument that the gas tax is a regressive user fee, noting that it has progressive benefits for rural areas because the population centers often subsidize rural investments. He said a 15 cent increase would cost the average American only \$2 and that it is generally sellable to the American people. He applauded President Trump for proposing to raise it by 25 cents. Chairman Shuster added that there must be solutions beyond raising the gas tax and suggested asset recycling. He asked if the Administration would support asset recycling. **Secretary Chao** said the Administration wants all funding and financing options on the table, including asset recycling. She encouraged states to remove laws disallowing private financing options.

Chairman Shuster acknowledged that permitting delays are still an issue and asked after the current situation. **Secretary Chao** said the FAST Act asked the U.S. Department of Transportation (USDOT) to implement 31 rules for NEPA improvements. Of those, 29 have been completed and the other two will be released this summer. She said the proposed reforms in the infrastructure plan are common sense ways to improve the process, like requiring concurrent reviews and reducing duplication. She said none of the changes would harm the environment and emphasized that improving the permitting process will allow more private entities to invest. **Chairman Shuster** said Congress is willing to help address these issues. He said they should start with the Army Corps of Engineers, which poses a huge challenge to the

approval process. He suggested they could be moved to USDOT or else the Department of the Interior instead of being housed within the Department of Defense.

Rep. Norton (D-DC) said there are around \$6 billion in program funds that remain unspent at USDOT, including funds for INFRA and TIGER grants. She asked why the funds have not been released. **Secretary Chao** said she did not believe USDOT had that much money outstanding but acknowledged some delays. She said it took awhile to stand this government up because not enough of their nominees were confirmed. She said TIGER grants will be out soon, hopefully within a week, and INFRA grants should be released by the beginning of June or early summer. She noted that both the INFRA and TIGER grant programs were put under a new office in USDOT's policy office, which is not an operational office.

Rep. Norton said this plan discriminates against most of the country by reversing the traditional 80-20 formula and providing relief to only rural areas. She asked why this was reversed. **Secretary Chao** said the traditional 80-20 split only applied to Interstate projects.

Rep. Larsen (D-WA) said that while P3s are not the only solution, there is more room for their use depending on the type of infrastructure. He encouraged the Administration to clarify where they think P3s could best be used as opposed to presenting all infrastructure under one large P3 package.

Rep. Larsen asked for the Federal position on raising the gas tax. **Secretary Chao** said all solutions to funding are on the table.

Rep. Napolitano (D-CA) said the plan penalizes state and local governments that have previously passed their own infrastructure funding mechanisms. **Secretary Chao** said the intent of the look back period was to recognize what states have done but limit it to three years. She said the Administration is flexible on that timeline and emphasized that they do not want to penalize those that have already made positive steps.

Rep. Gibbs (R-OH) asked Secretary Chao to elaborate on the \$50 billion provided for rural areas and the types of projects that could qualify under this program. **Secretary Chao** said \$40 billion of those funds will be sent out through a formula distribution directly to the Governors while \$10 billion will be used for a competitive program.

Rep. Gibbs encouraged the Administration to identify certain projects of national or regional significance and help prioritize those projects for investment.

Rep. Lipinski (D-IL) said that the TIFIA and RRIF programs are currently undersubscribed and asked how the Administration will make them more attractive. **Secretary Chao** said only one is undersubscribed but noted that the proposal recommends broader eligibility for the programs.

Rep. Denham (R-CA) asked about permitting improvements. **Secretary Chao** said USDOT is in the process of signing a memorandum of understanding with other agencies to implement the President's one federal decision Executive Order.

Rep. Johnson (D-GA) asked if rural America will be able to come up with enough funding to meet the 80 percent match requirement instead of sticking with the traditional 80-20 ratio. **Secretary Chao** said the 80-20 ratio currently applies only to Interstate projects. She emphasized that existing programs will remain. She added that Federal money is not free – it still comes from taxes but returns with additional strings attached.

Rep. Johnson asked how the Administration's plan will incentivize private investment in rural areas. **Secretary Chao** said that having the Federal government involved brings credibility to a project, making it easier for the private entity to enter into the agreement.

Rep. Davis (R-IL) suggested more of the funds go to local governments instead of the Governors because local priorities do not always align with the Governor's priorities. **Secretary Chao** said the entire proposal leaves the priority of projects up to state and local leaders.

Rep. Sanford (R-SC) asked for more details about the three year look back provision. **Secretary Chao** said the provision was developed by balancing a want to recognize state and local efforts to raise funds with the knowledge that some of these changes are 10 years old. She said the 12 agencies settled on three years a compromise but that they are willing to work with Congress to address this timeline.

Rep. Woodall (R-GA) appreciated the Administration's willingness to work on the three year look back provision but asked for more details about what will determine the final outcome of the conversation. **Secretary Chao** said the Administration is only concerned with giving credit where it is due but does not want such a broad look back period that no states are incentivized to take action going forward.

Rep. Woodall applauded that regulatory savings achieved by this Administration and asked if such levels of savings will continue. **Secretary Chao** said the previous burden of regulations alone was \$3 billion annually. USDOT's deregulatory approach has decreased regulations by \$312 million.

Rep. Lowenthal (D-CA) said the Administration's proposal undermines the key priority of funding the nation's goods movement system. He said the plan proposed \$100 billion in grants over 10 years that states and cities can compete for but the program is paired with a budget request that cuts \$122 billion from the HTF over the same period. He noted that the HTF provides dedicated formula funding for freight projects as well as funds the INFRA program. The proposed budget would significantly scale back both while also eliminating the oversubscribed TIGER program, which has made key intermodal investments. He asked how the Administration's plan works to advance freight projects while eliminating dedicated freight funding. **Secretary Chao** said freight is very important but did not have an answer. She said she would get back to the Congressman. **Rep. Lowenthal** told the Secretary of his bill, which would establish a dedicated freight trust fund to provide resources to make critical investments.

Rep. Lowenthal said a Council on Environmental Quality report found that the overwhelming majority of Federal projects that require review proceed under categorical exclusions exempt from the most rigorous reviews. Even in the case of the more rigorous reviews, the average length of a review, according to the Federal Highway Administration, is four years. He asked why the Administration is insisting it takes 10 years. **Secretary Chao** said the reforms address all reviews, not only environmental.

Rep. Graves (R-LA) asked what the plan will do for areas that are already suffering from financial challenges and will therefore have difficulty bringing such a high state or local match to the table. **Secretary Chao** said Congressman Graves' state of Louisiana is mostly rural so it could receive its funding from the rural program. **Rep. Graves** asked what would happen for its more urban areas, like New Orleans or Baton Rouge. **Secretary Chao** said the Infrastructure Incentives Program would be applicable there and that it is up to the state and local governments to decide which projects to prioritize. **Rep. Graves** said it is important that both the state and Federal governments invest and that any changes made give state and local governments enough time to adapt. He called for predictability in funding.

Rep. Bustos (D-IL) asked what policy objectives will affect the rural form. **Secretary Chao** said the Administration only published principles and will work with Congress to define the formula more firmly. She added that goals could be economic development, job creation, and economic vitality.

Rep. Bost (R-IL) asked for details about Secretary Chao's statement that USDOT cannot work on TIGER and INFRA decisions at the same time. **Secretary Chao** said that traditionally, competitive grant decisions were made within the various modal agencies. However, the FAST Act called for a multimodal approach through the creation of a new office within USDOT's policy office. USDOT has had to stand up that organization to administer these programs.

Rep. Wilson (D-FL) said seaports are important to national economic growth and asked how the plan will address their needs. **Secretary Chao** said the plan is available to all infrastructure types, including seaports. She added that existing programs at USDOT will remain.

Rep. DeSaulnier (D-CA) said the plan seems like an attack on suburban areas and also asked Secretary Chao to clarify her earlier statements that "the problem is not funding, it is permitting delays" while studies have found that the lack of funding is the most common factor hindering project completion. **Secretary Chao** said the plan is not an attack on suburban areas. However, she noted that rural infrastructure has long been neglected so this proposal tries to address those needs. She said that many suburban areas are much wealthier and therefore able to fund their own infrastructure projects. She defended her statement, saying that when private entities are allowed to participate, the problem for infrastructure investment really is not funding.

Rep. Plaskett (D-USVI) asked who will be administering the Rural Infrastructure Program and how the plan will address resiliency. **Secretary Chao** said it is likely the Department of Agriculture will administer that program. She said the plan has a bias toward new structures rather than maintenance of existing infrastructure.