
|: Sean Slone [1]

Issue: During the campaign, Donald Trump called for a $1 trillion package to invest in the nation’s infrastructure. But the devil likely will be in the details for both Republicans and Democrats when it comes to funding the plan and deciding what to fund. Beyond any one-time infrastructure investment in 2017 though, will Congress be able to hit the ground running so they can be ready when it comes time to reauthorize the FAST Act transportation authorization bill in 2020?

The election of Donald J. Trump in November left some state transportation advocates scratching their heads about the role states and localities will need to play in the years ahead to ensure that progress on transportation continues, that priorities are maintained and that future investments reflect those priorities.

Darrell Steinberg, who as a longtime state legislator and state Senate president in California led the charge for innovative land use planning, transportation planning and cap and trade legislation, took office as mayor of Sacramento in December.

“Do we play defense and prevent bad things from happening when it comes to transportation infrastructure or do we take the offense and try to control our own destinies when it comes to infrastructure and our transportation future?” Steinberg asked at Transportation for America’s Capital Ideas II Conference in November.

Steinberg believes many states and localities are well positioned to do the latter even if early indications about the Trump administration’s agenda come to pass.

“Donald Trump has talked about investing in infrastructure but I don’t know what that means,” Steinberg said. “I’m not sure he knows what that means. I’ve read reports that say (Trump) doesn’t want to invest in transit and that it’s roadways. I’ve heard the number $1.1 trillion worth of investment. Is that going to be for states and regions and cities and counties to be able to determine how they want to spend it? We don’t know. But I think it’s fair to say with all of the uncertainty about where the administration will go on these sets of issues that as states, as cities, as counties and regions, we may hope for the best but we ought to prepare to control our own destinies. And we ought to not be afraid to be creative and to push the envelope in ways that seek to achieve that balance between current needs and where the future lies.”

Utah Speaker of the House Greg Hughes also has concerns about how a big infrastructure investment might go. Hughes, a Republican, helped lead efforts to pass a gas tax increase in Utah in 2015 and seeing the population growth that was on the way in the Beehive State became a reluctant champion for the expansion of public transit. Last year he was mentioned as a possible candidate for U.S. Secretary of Transportation in Trump’s cabinet before the president-elect nominated Elaine Chao for the post.

“What we have to be careful (about) and what I hope happens in this coming administration is that it’s not an economic stimulus where we just start throwing federal dollars at any (transportation)
project that seems to be shovel-ready,” he told the Transportation for America conference. “We better be bringing those projects that we know are multimodal, that we know are going to take full advantage of the infrastructure we can create.”

Hughes said he’s optimistic the years ahead will bring significant investments in transportation but states and localities shouldn’t wait on Congress, the administration or anyone else when it comes to envisioning transportation’s future.

“We are the laboratories of things like this, not the federal government,” he said. “It will be your respective communities that come up with these ideas and start working together.”

What shape might a Trump infrastructure plan take?

Since Trump was elected in November, there has been significant speculation about what a Trump infrastructure investment plan might look like. Much of the early speculation hinged on a Trump campaign policy white paper released shortly before the election that was co-authored by Wilbur Ross, who Trump nominated to head the Commerce Department in late November, and Peter Navarro, Trump’s choice to head a new White House office on U.S. trade and industrial policy. The white paper notably stated that $167 billion in government-funded equity and large tax credits could be used to attract $1 trillion from private investors to finance a major transportation investment.

But many in the transportation community have concerns about what it would mean for such an infrastructure package to rely on financing and public-private partnerships (P3s).

“Financing is not funding,” said Beth Osborne, vice president for technical assistance at Transportation for America in Washington on a December 15 webinar. “There is nothing like funding. Financing means that I will help you to spread out your costs or reduce your risk but you will pay it. So we should not allow people to call this a funding solution. It is not funding. It is a loan. It is a sharing of risk. Funding is a different issue and a lot of times when people are talking about P3s and talking about financing, it’s because they want to tell you they’re going to do something for transportation without actually having to raise money. ... So keep that in mind as these options are swirling. They are an incredibly important tool in the toolbox but if they’re the only tool you’re being given, that’s a very limited tool.”

Moreover, Osborne noted, P3s are not necessarily going to work in all areas of the country.

“When I have spoken with folks even on Capitol Hill about P3s and financing and pointed out that rural areas—small towns in particular—have a lot of trouble taking advantage of those programs because they’re really designed for heavily populated areas with lots of users, sometimes I get a wash of understanding come across their face but it’s clearly the first time they thought about it and sometimes (they say) ‘yeah, I know. We’re going to have to do something else. We just don’t know what it is,’” Osborne said.

While a number of states have turned to P3s in recent years to help finance and complete infrastructure projects, even some of the strongest proponents of P3s caution they are not the entire solution to the nation’s infrastructure needs.

“We’re all for it in Virginia,” said Virginia Secretary of Transportation Aubrey Layne at the 2016 CSG National Conference in Colonial Williamsburg in December. “But it only fits a very small number of projects. ... Public-private partnerships are a procurement alternative. They are not a substitute for public dollars. They should be used to enhance public dollars.”

Many P3 projects require tolling to help the financing work for all parties involved. In Virginia, state
law says tolls can only be imposed on new roads that add capacity. So a project to rebuild an existing road would not be a candidate for tolling.

Layne said it also concerns him that it is typically large, complex projects that are tackled with a P3 over a number of years and the procurement method does not lend itself well to a quick hit, economic stimulus type of infrastructure investment.

“There is a long lead time (with P3s),” he said. “There’s a long learning curve. And if you remember (2009’s Recovery and Reinvestment Act) ... they all wanted shovel-ready projects. How many billion dollar projects are shovel-ready today? And that’s what I’m concerned about when I talk with (the Trump transition team) is that this can be good but it’s a lead time and if you don’t do it right, it can be just a big giveaway ... to the private sector without the taxpayers getting the benefits of the project.”

Jeff Davis agrees with Layne’s assessment of the incompatibility of Trump’s seemingly preferred infrastructure financing method and the nature of the nation’s actual infrastructure needs. Davis, a long-time observer of transportation-related funding issues in the Nation’s Capital, is a senior fellow at the Eno Center for Transportation and editor of the Eno Transportation Weekly. He also spoke at the CSG conference in Colonial Williamsburg.

“The problem is that (financing) always implies a rate of return, a revenue stream, which drastically limits the universe of potential projects you can select,” he said. “Most of the pressing infrastructure needs we have are not new capacity. They’re state of good repair, bringing the existing infrastructure back up, whether you’re talking highways or mass transit—especially in the Northeast—or airports or especially the growing needs of water—wastewater and drinking water.”

Davis also noted that if one of the intents of an infrastructure investment is to create jobs, studies show many more jobs can be created with a focus on state of good repair.

“President-elect Trump’s entire political message was tailored to blue collar workers and the dirty little secret is state of good repair is where all the blue collar jobs are,” Davis said. “The disproportionate share of the money and the jobs for new projects go to ... the people with planning degrees and the civil engineers and right-of-way purchase. ... If you’re looking at it from a pure political calculus and (Trump) wants to put blue collar America back to work, state of good repair is where it’s at, not new shiny things. But if you’re looking at the financing plan to put together, it’s all (P3s), which are exclusively about some kind of new capacity or occasionally tolling of existing lanes that bring in a revenue stream. So the financing mechanism (Trump) discussed during the campaign is not really compatible with what he wants to do about job creation.”

In addition, another Trump campaign promise—to “buy American and hire American”—could face challenges if applied to an infrastructure investment package, Davis noted.

“There are no statutory requirements right now on federal transportation grants requiring the use of E-Verify, the process by which contractors fulfill their legal obligation to verify the citizenship of people who are working for them,” he said. “It’s up to state law and a lot of states don’t require it. ... A lot of transit agencies don’t require it. And it would not surprise me at all if either (President) Trump proposed to extend some kind of E-Verify citizenship requirement to contractors getting some of this infrastructure windfall or even if he didn’t propose it, I can easily foresee some of the ... anti-immigration guys in the House offering it as an amendment to the bill having to pass. So there are potential places in the Trump agenda where getting the bill through the Senate could be greatly complicated by Trump simply following through on the logical implications of some of the things that were part of his campaign.”
Getting an infrastructure package through Congress

One of the biggest challenges a Trump infrastructure plan may face is making it through Congress in 2017, observers say. Congressional leaders already have laid out a world of issues they want to prioritize over infrastructure early in the year, including dismantling the Affordable Care Act. They will also have their hands full with confirmation battles over several of Trump’s cabinet nominees.

His nominee for U.S. Secretary of Transportation, Elaine Chao, is unlikely to face such a battle, said Davis, who described her as conventional, popular and easily confirmable (her confirmation hearing is set for this Wednesday). Her nomination sent an early signal to some that Trump wants her to hit the ground running early on his infrastructure plan. Chao is the wife of Senate Majority Leader Mitch McConnell and well-known in Washington, having served all eight years as Labor Secretary under George W. Bush. She is also no stranger to the U.S. Department of Transportation, having served as deputy secretary under Secretary Sam Skinner during the George H.W. Bush administration.

It was during that earlier stint at DOT that Chao worked to encourage the passage of legislation known as ISTEA—the Intermodal Surface Transportation Efficiency Act of 1991, a landmark surface transportation authorization bill that attempted to move the federal program in a much more multimodal direction.

Some worry however about how one of Chao’s later career stops might influence her policies at the department.

“Since then she has worked with the Heritage Foundation, which has been quite hostile to multimodalism in federal transportation programs (and) very critical of transit in particular but not quite as critical as they are of intercity passenger rail and bicycle and pedestrian infrastructure,” said Osborne of Transportation for America. “And while she didn’t work on transportation within the Heritage Foundation, a lot of people are wondering whether or not Heritage will have some sway over the leadership at USDOT.”

But Osborne also noted that plenty has changed since Chao first worked at DOT. In particular, the expectations of local governments, employers and travelers have changed with regards to how they value transit and other modes of transportation.

“The new DOT is a relative blank slate,” she said. “If they hear a lot from people about how important transit is, that will be important. ... I think the messages on transit that are going to be most effective with the new crew are going to have to do with economics. It’s going to have to do with being competitive in pulling in talent, in saving money for people. We’ve done some good work in talking about the cost of transportation when you only offer one mode of travel and I think having the business community in particular talk about these things, talking about the changing market, talking about having government get out of the way of the market and let it respond, being partners with the market and giving people what they’re asking for—these are going to be powerful comments. The companies that can talk about their retention rates when they move to areas where people want to be (and) how they’re looking for clusters of talent and where they happen to be found.”

Greg Hughes would likely subscribe to that notion. The aforementioned Utah House Speaker and reluctant champion for transit in his state who reportedly has had Trump’s ear, has seen the economic impact transit investment can have firsthand.

“I’m a big believer in transit-oriented development,” he told the Transportation for America
conference in November. “During the Great Recession, one of the economic sectors that never slowed down was the transit-oriented development. ... Finding those clusters of residential, office, destination retail, events—having those areas where those stations are developed and having that kind of economic activity occurring around those—that’s the kind of planning that we have to do so that we can go to a federal government and inspire how they would commit those dollars to these larger, broader, game-changing plans.”

Looking down the road

While Chao’s leadership at DOT will likely play a big role in determining the Trump administration’s approach to transit and a variety of other transportation issues, the individuals chosen to fill other key posts at the department—Federal Highway Administrator, Deputy Secretary and Undersecretary of Policy, among them—will be influential as well.

It was also reported in December that Trump was planning to put together an infrastructure task force to coordinate among federal, state and local officials and private investors as he seeks to advance his infrastructure spending program.

But beyond the Trump infrastructure plan, Congress must also keep one eye down the road toward 2020, when 2015’s Fixing America’s Surface Transportation (FAST) Act expires.

“The D.C. transportation stakeholder community ... (is) trying to build support for making sure people keep their eye on the long-term big picture, which is to use whatever opportunities that President Trump has (in 2017) to try and address the long-term stability of the Highway Trust Fund post-FAST Act as part of this deal,” said Davis of the Eno Center for Transportation.

Davis noted that Congress would need to come up with $120 billion just for a status quo, flat-line funding, six-year transportation authorization bill that would extend from September 2020 through fiscal year 2026. Those additional revenues could be captured with an increase in the federal gas tax.

“The latest numbers from the Congressional Budget Office indicate that you need an immediate 10 cent-per-gallon gasoline and diesel tax increase at the federal level in September 2020 just to maintain status quo and keep the trust fund from going broke,” Davis said. “And that’s going to increase about 1 cent per gallon per year.”

But faced with similar Highway Trust Fund shortfalls in recent years, Congress has not chosen to back a gas tax increase, instead turning to General Fund dollars to supplement existing gas tax revenues.

Davis said it’s unlikely that Congress would choose to reopen the FAST Act before 2020, reconsider funding formulas or make an effort to address a Highway Trust Fund shortfall without that emergency staring them in the face immediately. Instead, he believes the Trump infrastructure plan would likely take the form of a Recovery Act-style measure that would layer dollars for infrastructure on top of those already promised in the FAST Act.

But some have an issue with the concept of simply throwing money at projects or dropping it into the existing highway formula programs.

“We want money for ... competitive grant programs,” said Osborne. “We want funding for multimodal programs. We want to make sure that we’re not just putting it in the trust fund where it mostly goes to highways and on transit it goes to important transit maintenance work but for the big projects, we’re outside the program.”
Hughes, the Utah House Speaker, said regardless of what happens on infrastructure during the Trump years, states need to remain ready to play a significant role in shaping transportation’s future.

“When we talk about the federal government or Congress, they can be great stakeholders when they want to be or when they can be but when we’re doing our planning, when we’re looking at our forward vision, we better appreciate the fact that it’s going to be up to us and we’re going to have to have those plans ready,” he said. “We’re going to have to have what we would like to see happen and we’re going to have to make the case to our constituencies because if we wait for Congress to initiate this, we’re going to be waiting a long time. ... I just think it’s a tough beast. We need to control what we can control.”

**Further Reading & Resources**

**Trump Administration & Infrastructure Plans**

- “Trump wants to spend $1 trillion on infrastructure. Here’s how he can get a better deal.” [12] CNBC. December 27, 2016.
“3 infrastructure improvements the Trump administration should prioritize, according to Obama’s Secretary of Transportation.” [36] Business Insider. December 11, 2016.
“A public investment agenda that delivers the goods for American workers needs to be long-lived, broad, and subject to democratic oversight.” [37] Economic Policy Institute. December 8, 2016.
“How to Spend a Fortune on Roads and Make Potholes Worse.” [38] Streetsblog USA. December 7, 2016.
“A potential pothole in Trump’s infrastructure plan.” [51] CBS News Moneywatch. November 29,
2016.


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Infrastructure Funding


Public-Private Partnerships & Tolling
• Rhode Island: “Updates on States to Watch on Transportation Funding: Rhode Island Turns to Truck Tolls to Fund Bridge Repairs.” [98] CSG Blog Post. February 19, 2016.
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