

AASHTO TRANSPORTATION POLICY FORUM

Carlos Braceras, Chair | Executive Director, Utah Department of Transportation | Vice President, AASHTO
Tuesday, February 27, 2018 | 2:00-5:00pm EST
2018 AASHTO Washington Briefing | Washington, D.C.

Meeting Minutes **DRAFT**

STATE DOT ATTENDANCE

Chair Carlos Braceras (Utah), Alabama, Alaska, Arizona, Arkansas, California, Colorado, Delaware, Georgia, Hawaii, Illinois, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nevada, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, Wyoming

FEDERAL POLICY UPDATE

The Trump Administration released its infrastructure proposal which outlines recommendations to redefine the federal role in infrastructure provision supported by \$200 billion in direct federal funding. The proposal which was released as part of the Administration's FY 2019 budget request, is the start of a process where Congress will ultimately shape the substance of the resulting legislation for the President to sign. AASHTO's concern is that neither the proposal nor the budget request address the Highway Trust Fund (HTF) shortfall in FY 2021. The Administration is focused on creating discretionary grant programs to increase state and local contribution and private financing. Joung Lee, AASHTO Policy Director, emphasized that the Administration's focus does not align with the needs of State DOTs. Currently, 31 states have enacted their own revenue measures to fund the majority of their projects reaffirming that the states are the majority stakeholders of transportation infrastructure. Furthermore, while opportunities exist for private participation, most projects will not generate a sufficient revenue stream for return. AASHTO encourages the Administration and Congress to prioritize direct funding rather than financing incentives that rely on borrowing and utilizing private capital.

Many of the Administration's initiatives for environmental permitting improvement were lifted directly from AASHTO's Inventory of Legislative and Administration Recommendations from July 2017; specifically, in greater assignment of traditional federal authorities to interested states. Joyce Taylor of Maine highlighted Maine's success with their programmatic agreement on the Endangered Species Act which reduced their review period from 1 – 1.5 years down to 2 weeks. The Center for Environmental Excellence stores all state programmatic agreements in the programmatic agreement library.

Jim Tymon, AASHTO Chief Operating Officer, continued the federal policy update by discussing the status of the 2018 appropriations process. The government is currently operating on its fifth continuing resolution, which will expire March 23, 2018. Congress passed a two-year budget deal that established new caps for overall government spending. The two-year budget agreement dedicates at least \$10 billion annually in FY 2018 and FY 2019 towards infrastructure investment. It is unknown how the funding will be distributed amongst the different infrastructure sectors.

Mr. Tymon highlighted the contradictions between the infrastructure package and budget proposal. While the budget fully funds the FAST Act levels for highway and transit programs, the Administration is proposing cuts to existing programs while simultaneously advocating for additional investment through their infrastructure package. AASHTO submitted a letter urging Congressional leaders to direct additional infrastructure funding towards existing formula-based federal highway and transit funding rather than discretionary grant programs. TPF agreed that formula funding is the preferred structure because it allows the states to go through the planning process, provides full transparency to the public, and it's the most efficient method to fund construction. Marc Williams of Texas cautioned that while formula funding is favored, the existing formulas are based from the 2000 census and system size; the formulas should be based on current demographics and population.

Discretionary grant programs enable states to construct innovative projects that are absent from long term plans and projects that don't have secured funding. Ms. Taylor expressed that Maine does not have the flexibility to spend on ports and rails and have used their granted discretionary funds for rail projects. In addition, Michelle Boomhower of Vermont stated that they have used their TIGER and INFRA grant applications have been exclusively for rail projects. Nevertheless, these grant programs can also hinder states. Trevor Sleeman of Oregon stated it is expensive to develop a competitive proposal. The costs of developing the grant application with a full design, whether put together in-house or by consultant, is an expensive upfront cost for a risk of not being selected. The discretionary grant programs are also unpredictable. Stephanie Pollack of Massachusetts expressed that the discretionary grant programs would be more favorable if they were organized like the FTA New Starts Program with the structured processes.

Lastly, many DOTs highlighted that it is important for AASHTO policy to continue to be shaped by all councils as many DOTs are becoming more multi-modal.

2018 AASHTO Action Agenda and Briefing Papers

The AASHTO Action Agenda highlights six policy initiatives for the 2018 calendar year. The six policy issues were developed with input from the full TPF committee, TPF Steering Committee, and AASHTO staff.

Actions #1 – 3: Mr. Lee and Jennifer Brickett, BATIC Institute Director, delivered AASHTO's action items and recommendations for infrastructure funding and finance. First, AASHTO recommends fixing the Federal Highway Trust Fund (HTF) in the infrastructure package by raising the rate of taxation or free rates of existing federal revenue streams into the HTF, identifying and creating new Federal revenue sources for the HTF, and diverting current revenues from other Federal sources into the HTF. Second, Congress should increase and prioritize formula-based federal funding to ensure flexibility. Although discretionary grant programs are beneficial, increasing formula-based funding provides secured funding and the flexibility necessary for each state to meet their own needs. In addition, the majority of transportation projects cannot generate a revenue stream which limits the opportunity to utilize financing tools and private participation. Lastly, Congress should honor funding levels in the FAST Act through full appropriations bills, instead of short-term continuing resolutions which disrupts Federal funding and delays construction.

Mr. Lee asked TPF how recent continuing resolutions are different than the continuing resolutions of the past. Vice Chair Lynn Zanto of Montana answered that the continuing resolutions are running further into the federal fiscal year and running up against construction season which limits the types of projects

the Department can begin. It was added that states used to be able to supplement the shortfall with state funds but now state budgets are low and cannot make the difference.

Action #4: Shannon Eggleston, AASHTO's Program Director for Environment discussed the recommendations to streamline environmental permitting and approvals, and reduce program burdens. Congress must update and revisit the underlying purposes of environmental laws, such as the Endangered Species Act, the Clean Air Act, and the Clean Water Act, and develop processes that reduce the costs and time associated with traditional environmental reviews while maintaining environmental protections. TPF agreed that the problem is not NEPA, but the underlying subsequent laws. Bobby Lewis of North Carolina stated that although the goal is to satisfy permit requirements through the NEPA process, that does not happen because subsequent environmental laws have their own timelines, requirements, and processes which causes delays. TPF members added there are still many provisions from past reauthorizations that have not been implemented; therefore, focus on implementing those provisions and update the subsequent laws. Furthermore, the issue of NEPA and the fiscal constraint requirements adds to delay. FHWA released a memo stating that they will not sign off on any NEPA documents until the project is fiscally constrained in the planning documents. TPF members stated that fiscal constraint causes challenges in terms of having off the shelf ready to go projects and the ability to attract innovative financing. Fiscal constraint has stopped and killed projects.

In addition, to updating the subsequent environmental laws, AASHTO recommends expanding the authorities that can be assigned to states and simplify the related process. Examples include requiring FHWA to promptly streamline and simplify the application, MOU development, audit processes for assignment of NEPA authorities, and expanding assignment authorities that states may assume beyond NEPA requirements. Ms. Taylor repeated the success of Maine's programmatic agreement on the Endangered Species Act which reduced their review period from 1 – 1.5 years down to 2 weeks. To finish, AASHTO recommends developing a pilot program to allow Federal agencies to waive or modify their requirement to develop and test new, innovative practices and approaches to streamline projects. Ms. Taylor recommended that the pilot program take a regional approach as different regions have unique target issues. AASHTO reaffirmed TPF that they are working with the Council on Environmental Quality, Administration, and Congress on these issues.

Action #5: Matthew Hardy, AASHTO's Program Director for Planning and Performance Management, delivered AASHTO's recommendations to ensure states have the ability to safely deploy connected and autonomous vehicles (CAV). AASHTO supports integrating DSRC-based connected vehicle technologies with the development and deployment of autonomous vehicles. State DOTs believe that creating a strong foundation for autonomous vehicles requires connectedness between vehicles and infrastructure. Lastly, AASHTO supports the Senate AV START Act (passed the Senate Commerce Committee) compared to the passed House SELF DRIVE Act because it includes clearer preemption language that reflects the Federal-state regulatory paradigm for motor vehicle laws. State DOTs should continue to maintain their traditional oversight of vehicle operations and enforcement of traffic laws.

Joel Jundt of South Dakota recommended the action of supporting all connected vehicle technologies instead of showcasing sole support of DSRC technology. He expressed that regardless of what technology is deployed, AASHTO's main point is for connectedness between vehicles and infrastructure. Multiple DOTs agreed that the technology will evolve; however, DSRC is ready to be deployed. Ed Bradley of Toyota discussed CAV technology from a vehicle manufactures standpoint stating that Toyota does not view CAV technology as either DSRC or 5G. The reality is that DSRC is deployable as Toyota has implemented the technology into vehicles in Japan for 2 years; whereas 5G won't be deployable for

several more years. It's important to note that the U.S. DOT is focused on keeping technology agnostic and vehicle manufactures understand that there will not be directive to use a specific technology. The federal government will develop the safety standard specifications and the vehicle manufactures will implement the technology that will meet the standard, which currently is DSRC.

Action #6: The Federal Aviation Administration (FAA) and Airport Improvement Program (AIP) funding is set to expire on March 31, 2018. A House bill (HR 2997) sponsored by Chairman Shuster passed the House Transportation and Infrastructure Committee; a Senate bill ((S 1405) sponsored by Chairman Thune passed the Senate Commerce Committee but deliberations have stalled. John Shea, Manager of Government Relations for the National Association of State Aviation Officials (NASAO) summarized NASAO's reauthorization concerns. NASAO does not support the air traffic control privatization provision of the House bill because the Airport and Airways Trust Fund (AATF) is nearly 100% self-sufficient and any rebalancing of taxes and revenues away from the AATF could not support the AIP fund increases contained in the same bill. In the Senate bill, NASAO does not support the controversial 1500-hour flight rule. Numerous studies have concluded that increasing pilot training hours from 250 – 1500 hours has no positive correlation with the increase in proficiency or safety. Both House and Senate bills have dedicated increased funding for AIP. NASAO has advocated that short-term extensions stall grants planning and execution process which worsens the airports needs deficit.

NASAO and AASHTO support the UAS integration pilot program that allows states to partner with federal government and private partners to advance the operations of drones. The government will collect data over three years and use the results to develop UAS legislation. NASAO also supports reauthorizing the Essential Air Service Program and the Small Community Air Service Deployment Program to ensure funds for rural air service. Lastly, NASAO proposed reform to the non-primary program (NPE) stating states have their own right to have the first say in how NPE funds should be utilized while having the dual benefit of reducing the amount of undue carryover and increasing much needed state apportionment dollars. This recommendation maintains the airports' ability to have their basic needs met in a timely manner, preserving the principle that every airport in the National Plan of Integrated Airport Systems (NPIAS) is a safe place to land, and also prevents funds from being unnecessarily forfeited back to the FAA.

AASHTO FAST ACT REAUTHORIZATION PROCESS

The Transportation Policy Forum (TPF) will lead AASHTO's FAST Act reauthorization efforts. TPF will seek guidance from AASHTO Committee's and Modal Councils to determine AASHTO's positions on reauthorization which will then be recommend to the Board of Directors. The guidance will stem from five-page white papers submitted by the Modal Councils and Committees that highlight policy issues and challenges. The goal of this effort is to have AASHTO's positions determined by October 2019 which will give members and staff enough time to advocate policy priorities before the FAST Act expires in September 2020. Further details and a complete timeline for this effort will be discussed at the 2018 Spring Meeting in Franklin, TN.

WRAP-UP

The next meeting of the Transportation Policy Forum will take place at the 2018 Spring Meeting scheduled for Wednesday May 23, 2018 in Franklin, TN.