

## AASHTO FAST ACT REAUTHORIZATION

# White Paper Compilation Part 2: Modal Councils and Special Committee on Freight

**DRAFT** February 19, 2019

### POLICY WHITE PAPERS FROM AASHTO MODAL COUNCILS AND SPECIAL COMMITTEE ON FREIGHT

Resulting from the second phase of the 18-month reauthorization policy development process, this document comprises in-depth policy white papers from five of the Modal Councils and Special Committee on Freight listed below:

12. Active Transportation
13. Freight
14. Highways and Streets
15. Public Transportation
16. Rail Transportation

After the meeting of the AASHTO Transportation Policy Forum in Washington, DC on February 26, 2019, recommendations from TPF will be provided to each of the Modal Councils and Special Committee on Freight for their consideration before finalizing each of these white papers. Upon completion, TPF will prioritize issue areas from all 16 white papers in order to formulate the draft of formal FAST Act policy recommendations for the AASHTO Board of Directors.

### TIMELINE

- **May 2018:** Formally kick off the FAST Act reauthorization effort at the TPF meeting; *2018 AASHTO Spring Meeting, Franklin, TN*
- **May 2018 to September 2018:** Committees to develop and approve their five-page white paper.
- **September 2018:** TPF, Modal Councils, and Special Committee on Freight to receive briefings on each white paper; *2018 AASHTO Annual Meeting, Atlanta, GA*
- **September 2018 to February 2019:** Modal Councils and Special Committee on Freight to develop and approve their five-page white paper.
- **February 2019:** TPF to receive briefings on each Modal and Special Committee white paper; *2019 AASHTO Washington Briefing, Washington, DC*
- **February 2019 to May 2019:** TPF to prioritize policy issue areas based on 16 white papers received.

- **May 2019:** TPF to identify the priority policy issue areas for further discussion; *2019 AASHTO Spring Meeting, Park City, UT*
- **August 8-9, 2019:** TPF to hold an in-person special session to consider all priority issue areas, then draft policy resolutions for AASHTO Board; *Minneapolis, MN*
- **October 2019:** AASHTO Board of Directors to consider and formally adopt the AASHTO reauthorization policy package; *2019 AASHTO Annual Meeting, St. Louis, MO*
- **October to November 2019:** AASHTO staff to develop visual complements of the reauthorization package intended to serve different audiences in the transportation stakeholder community
- **November 2019 to September 2020:** AASHTO members and staff to communicate and explain AASHTO's formal policy positions

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# 12: Active Transportation

## INTRODUCTION AND BACKGROUND

The AASHTO committees developed 11 topical reauthorization white papers for consideration by the Transportation Policy Forum (TPF). The modal councils are now developing their reauthorization white papers, which may include proposals from the committee white papers and/or entirely new policy proposals. The following is the draft Council on Active Transportation white paper. The Council white paper indicates where ideas/proposals from the committee white papers are included, as well as new proposals.

## SPECIFIC POLICY ISSUES AND RECOMMENDATIONS

### ISSUE 12-1: Safely Deploy Connected and Automated Transportation Technologies

- *Current Federal Policy:* None
- *Issue:* With the emergence of connected and automated transportation (CAT), the highest priority for AASHTO and state DOTs is the safety of transportation system users. It is estimated that over 90 percent of fatal vehicle crashes are a result of human error, some of which could be significantly mitigated through CAT technologies. CAT has the potential to positively influence the safety of vehicle occupants, transportation maintenance and construction workers, bicyclists, and pedestrians. There is however a recognition that innovative technology is inherently accompanied by uncertainties, which makes the safety of these new technologies paramount. Although connected and autonomous vehicles are currently emerging, there are other existing, proven automated technologies, such as headlamp designs, that should be increasingly deployed while connected and autonomous vehicles are being developed and tested.
- *Recommendations:*
  - Additional data must be developed, collected and analyzed on the safety of connected and automated vehicles, including data regarding the ability of vehicles to detect and stop for pedestrians and bicyclists. Non-proprietary data generated by automobile manufacturers, technology developers, research organizations, and public agencies should be shared with decision makers.
  - While CAT technologies are being developed and tested, increase efforts to deploy existing proven automation technologies.
  - Government regulators and lawmakers should revise and/or remove outdated safety laws, regulations and guidance when the data unequivocally demonstrates a technology's ability to provide an equivalent or higher level of safety. However, the legislative and regulatory framework that reflects the mix of vehicle styles, ages and technologies throughout the transition to new technologies should be kept in place.

### ISSUE 12-2: Expand Eligibilities for the Surface Transportation Block Grant Program Set-aside for Transportation Alternatives and Make State DOTs Eligible Recipients under this Program

- *Current Federal Policy:* 23 U.S.C. 133(h), 23 USC 206
- *Issue:* Although state DOTs use significant resources to administer the Surface Transportation Block Grant Transportation (STBGP) set-aside for Transportation Alternatives (TA), state DOTs are not eligible recipients of TA funding. Similar programs, such as the Recreational Trails Program, allow states to be reimbursed for costs incurred in administering the program, up to seven percent of the

apportionment made to the state each year (23 USC 206((d)(2)(H)), and one percent of Recreational Trails Program monies are returned to USDOT each year to administer the program (23 USC 133(h)(5)(B). Thus, it is important that state DOTs be allowed to use a portion of the TA program funds for expenses associated with administering these funds.

In addition, the current prohibition of state DOT sponsorship/eligibility for TA funds hinders fund obligation as local government sponsors are often reluctant to use federal funding for small projects. As such, state DOTs should be able to sponsor local projects and receive project grants, at the request of the local agency.

Also, TA funding is available only for infrastructure related and environmental projects. The Recreational Trails Program, however, includes eligibility for maintenance of existing trails and educational programs to promote safety and environmental protection.

- *Recommendations:*
  - State DOTs should be reimbursed for eligible costs incurred in administering the TA program, up to seven percent of the apportionment made to the state each year.
  - Restore the authority for states to receive TA funding and administer TA projects, at the request of a local agency.
  - Allow state DOTs to transfer STBGP set-aside funding for Transportation Alternatives suballocated for locally-selected projects each year if the locality fails to spend their obligation authority.
  - Allow TA funds to be used for non-infrastructure programs that focus on preservation, safety, public education, enforcement, and/or public outreach.

### **ISSUE 12-3: Streamline the Delivery of Surface Transportation Block Grant Transportation Alternatives Program Projects and Revise the Set-aside Funding Calculation**

- *Current Federal Policy:* 23 U.S.C. 133(h)(1)(A)
- *Issues:* Applying the full range of federal requirements to the much smaller Transportation Alternatives (TA) projects inhibits the efficient delivery of those projects. Often, 50 percent or more of TA funding is spent on preliminary engineering activities to meet federal requirements, leaving little money for project construction. In addition, local public agencies are typically unfamiliar with federal processes, which slows down project delivery. Simplifying the federal requirements for TA projects would greatly expedite project delivery.

Also, the current TA set aside is a fixed dollar amount. This fixed amount does not allow the TA program to grow throughout time as do other percentage based programs.

- *Recommendations:*
  - Develop a Task Force consisting of state DOTs and local transportation agency representatives to make recommendations to USDOT on streamlining federal processes and expediting project delivery for TA projects.
  - Change the TA set-aside from a specific dollar amount to a percentage so that the TA Set-aside funding is tied to increases/decreases in overall transportation funding.

### **ISSUE 12-4: Allow Non-infrastructure Eligibilities under the Highway Safety Improvement Program**

- *Current Federal Policy:* 23 USC 148
- *Issue:* The FAST Act restricted Highway Safety Improvement Program (HSIP) eligibility and eliminated the ability to use HSIP funds for public awareness and education efforts. These changes are inconsistent with the intent of state Strategic Highway Safety Plans, which contain a multidisciplinary approach to reducing fatalities and serious injuries on all public roads. There should also be additional flexibility to use HSIP funds for pilot experimental, temporary installations, for

example, testing the viability of protected active transportation lanes. The lack of flexibility in safety project selection in the HSIP program, particularly non-infrastructure related activities, stifles innovative safety improvements that lead to crash reductions and reduced highway fatalities.

- *Recommendations:*
  - Restore flexibility for states to use a portion of HSIP funds for non-infrastructure safety programs such as behavioral efforts, public awareness, education and research.
  - Allow HSIP funds to be used for pilot experimental, temporary installations, for example, testing the viability of protected active transportation lanes.

#### **ISSUE 12-5: Adoption of Public Rights-of-Way Accessibility Guidelines (PROWAG)**

- *Current Federal Policy:* 28 CFR 36
- *Issue:* The Americans with Disabilities Act strives to ensure access to the built environment for people with disabilities. To facilitate this access, the US Access Board is responsible for developing and updating design guidelines known as the ADA Accessibility Guidelines (ADAAG), which focus primarily on facilities. These guidelines are adopted in regulation and used by the US Department of Justice and the US Department of Transportation in setting enforceable standards that the public must follow. However, ADAAG is intended for vertical (buildings and facilities) rather than horizontal (sidewalks and street crossings) construction, which has created uncertainty in transportation agencies regarding ADAAG application. In addition, several state DOTs are being required, as the result of litigation, to implement suboptimal accessibility solutions that were truly intended for buildings, not transportation facilities.

As such, the Access Board determined more than a decade ago that additional guidance was necessary to address conditions and constraints unique to public rights-of-way. The Access Board collaboratively developed guidelines for facilities within the public rights-of-way – the Public Rights-of-Way Accessibility Guidelines (PROWAG) – which address transportation-specific issues, including access for blind pedestrians at street crossings, wheelchair access to on-street parking, and various constraints posed by space limitations, roadway design practices, slope, and terrain. Adoption of PROWAG in regulation would provide transportation agencies with solid, researched solutions for accessibility within their transportation corridors and ensure consistency across the country in the application of accessibility features within the streetscape.

- *Recommendation:* Finalize in regulation, the Public Rights of Way Accessibility Guidelines (PROWAG).

#### **CROSS-REFERENCE OF RELATED ISSUES IN OTHER WHITE PAPERS**

- ISSUE 1-1: Deploying CAV Technologies in the Safest Manner Possible is Paramount
- ISSUE 6-5: Make State DOTs and MPOs Eligible Recipients under the Set Aside from the Surface Transportation Block Grant Program (aka transportation alternatives program)
- ISSUE 7-1: Adoption of PROWAG
- ISSUE 7-14: Small/Local Projects and Transportation Alternatives Projects
- ISSUE 10-1: Non-infrastructure Eligibilities under the Highway Safety Improvement Program

# 13: Freight

## INTRODUCTION AND BACKGROUND

The Fixing America's Surface Transportation (FAST) Act advanced federal policy on freight and goods movement by establishing a national freight program. Recognizing the clear national interest in addressing freight bottlenecks and enhancing the multimodal movement of goods, the FAST Act created a discretionary grant program for freight projects and a freight formula program for states.

Below are specific proposals from AASHTO's Special Committee on Freight to improve the national freight program and assist states in their efforts to move goods safely, efficiently, and reliably.

## SPECIFIC POLICY ISSUES AND RECOMMENDATIONS

### ISSUE 13-1: Expand the Extent of both the Primary Highway Freight System and National Multimodal Freight Network

- *Current Federal Policy:*
  - 23 U.S.C. 167, *National Freight Policy*
  - 49 U.S.C. 70103, *Interim National Multimodal Freight Network*
- *Issue:* The definition and limitations of the Primary Highway Freight System (PHFS) and National Highway Freight Network (NHFN) and the National Multimodal Freight Network (NMFN) will not allow states to attain the comprehensive goals set forth in MAP-21 and the FAST Act and do not take into account the geographic differences in states. The PHFS network currently consists of 41,518 centerline miles, including 37,436 centerline miles of Interstate and 4,082 centerline miles of non-Interstate roads. The designation of PHFS roads in various states has resulted in a limited and disconnected network. The ability of a state to designate some additional mileage to the NHFN as critical urban and rural corridors still leaves an unduly limited and disconnected network. For the NMFN, the current draft network is limited and does not include all of the National Highway System (NHS) roads nor critical rural and urban transportation links. Since states are required to complete state freight plans, which must then be approved by U.S. DOT, a framework exists to identify and define the freight network in any given state.
- *Recommendations:*
  - Expand the PHFS to include all Interstate System roadways regardless of how much freight funding a state receives. Freight program eligibility should include all Interstates by default.
  - Remove restrictions on state authority to add mileage to the NHFN and NMFN, including but not limited to mileage caps on critical urban and critical rural corridors.
  - Add eligibility to use funds on any portion of a state's multimodal freight network as defined in a state's freight plan.

### ISSUE 13-2: Expand Eligible Activities Through National Highway Freight Program

- *Current Federal Policy:*
  - FAST Act Section 1116; 23 U.S.C. 167 establishes a National Highway Freight Program (NHFP) that funds activities that "must contribute to the efficient movement of freight on the [NHFN] and be identified in a freight investment plan included in [the state's freight plan.]"
  - FAST Act Section 1105; 23 U.S.C. 117 establishes the Nationally Significant Freight and Highway Projects (NSFHP) program to provide financial assistance—competitive grants, currently now

known as Infrastructure for Rebuilding America (INFRA) grants, or credit assistance— “for nationally or regionally significant freight and highway projects.”

- *Issue:* The use of the nation’s transportation system for freight is increasing, and with it the need for integrated solutions to better move freight throughout the country. Currently, no more than 10% of NHFP formula funding may be used for intermodal, freight rail, or water transportation. Integrated freight management solutions, freight safety programs, and research supporting future investments should be codified as eligible for NHFP and INFRA funds in new surface transportation reauthorization legislation.
- *Recommendation:* Reform the National Highway Freight Program, both the formula program to states and the discretionary program (INFRA), to more clearly include eligibility for investment in integrated freight management solutions (e.g., intermodal systems, freight lanes on the Primary Highway Freight System and National Multimodal Freight Network, and parking and staging areas), freight safety programs (platooning, remote sensing technology, etc.), and research supporting future investments. Remove the 10% multimodal cap and provide flexibility for states to use their discretion in determining the amount of NHFP formula funding to go toward multimodal freight projects. Eligibility should include multi-state proposals and projects, for regions and corridors to improve freight intermodal connectivity.

#### **ISSUE 13-3: Changes to Infrastructure for Rebuilding America (INFRA) Discretionary Grant Program**

- *Current Federal Policy:* FAST Act Section 1105; 23 U.S.C. 117
- *Issue:* The FAST Act established a new discretionary grant program for Nationally Significant Freight and Highway projects. Grant eligibility is limited to highway projects on the NHFN, highway or bridge projects on the NHS, railway-highway grade crossing or grade separation projects, or intermodal or rail projects, including those within the boundaries of public or private freight facilities. Under the FAST Act, not more than \$500 million in aggregate of the \$4.5 billion authorized for INFRA grants (previously known as FASTLANE grants) over fiscal years 2016 to 2020 may be used for grants to freight rail, water (including ports), or other freight intermodal projects that make significant improvements to freight movement on the National Highway Freight Network.
- *Recommendations:*
  - Reauthorize the program and remove the caps used for grants to freight rail, water (including ports), or other freight intermodal projects.
  - Add eligibility to use funds on any portion of a state’s multimodal freight network as defined in a state’s freight plan.

#### **ISSUE 13-4: Make Consistent the Financial Planning Requirements among the Required Performance-Based Planning Documents**

- *Current Federal Policy:*
  - 49 USC Section 70202, *State Freight Plans*
  - 23 USC Section 119, *National Highway Performance Program*
  - 23 U.S.C. Section 135, *Statewide and Nonmetropolitan Planning*
  - 23 CFR Section 515, *Asset Management Plans*
- *Issue:* Certain Federal surface transportation programs are subject to significant planning requirements and processes. In particular, certain planning documents require a financial plan tied to a certain number of years in the future. For example, the Statewide Transportation Improvement Program (STIP) under 23 USC Section 135 requires a fiscally constrained four-year program of projects. The State Freight Plan under 49 USC Section 70202 requires a five-year financial plan for the projects listed in it. The asset management plan regulations impose a non-statutory ten-year

financial plan requirement for the projects listed in it. Currently, the significant uncertainty associated with federal funding conditions result in the financial planning requirements associated with the STIP, State Freight Plan, and asset management plan have far less value for decision making with risk and uncertainty being multiplied.

- *Recommendation:* AASHTO recommends all financial plan requirements associated with any federally-required plan be on a consistent duration that allows for coordinated decision making at the state level.

#### **ISSUE 13-5: Reinstate the National Cooperative Freight Research Program**

- *Current Federal Policy:* To maximize the effectiveness of state DOTs' research and training activities, FHWA carries out or funds a host of activities necessary to support a vibrant nationwide research and training program including research administration, communication, coordination, conferences, and partnerships with other national and international organizations.
- *Issue:* Throughout its history, a core element of the FHWA Research, Development, and Technology Transfer's (RD&T) mission has been to promote innovation and improvement in the highway system. Over the last decades, this critical mission element has developed into a broad array of research and technology activities covering the spectrum of advanced research, applied research, technology transfer, and implementation. The National Cooperative Freight Program, however, was last authorized under SAFETEA-LU. MAP-21 and the FAST ACT provided much more emphasis on freight, while simultaneously reducing funding for freight research at the national level. States are concerned that freight research needs are not being met solely through the National Cooperative Highway Research Program (NCHRP). A dedicated national freight research program is needed.
- *Recommendation:* Reestablish the NCFRP to provide research products to assist states in their delivery of freight transportation projects with funding beyond the amount prescribed for the federally managed Research Technology & Education programs and State Planning & Research funded programs.

#### **ISSUE 13-6: Establish Office of Multimodal Freight Transportation within U.S. DOT Office of the Secretary**

- *Current Federal Policy:* Various modal offices with the U.S. Department of Transportation play a role in freight planning and programs.
- *Issue:* There is no centralized office within U.S. DOT to address multimodal domestic and international freight planning needs across modal administrations.
- *Recommendation:* Establish and fund an Office of Multimodal Freight Transportation within the U.S. DOT Office of the Secretary to address multimodal domestic and international freight planning needs across modal administrations. There is precedent for such an office. The former Office of Intermodalism was established in ISTEA at the Secretarial level and helped to coordinate intermodal policy and programs.

#### **CROSS-REFERENCE OF RELATED ISSUES IN OTHER WHITE PAPERS**

[To be filled later]

# 14: Highways and Streets

## INTRODUCTION

A working group consisting of members of the Council on Highways and Streets reviewed the 95 reauthorization recommendations identified in the 11 working group whitepapers presented at the 2018 AASHTO Annual Meeting and discussed additional topics for consideration within the Council's Reauthorization White Paper. These recommendations were then reviewed by the full membership of the Council.

Finally, at the end of this white paper are additional issues culled from the 11 working group white papers that were identified as of "higher importance" to the Council members based on two recent surveys.

## SPECIFIC POLICY ISSUES AND RECOMMENDATIONS

### ISSUE 14-1: Stability of the Highway Trust Fund

- *Current Federal Policy:* N/A
- *Issue:* The Highway Trust Fund (HTF) does not currently allow for continuity and consistency in the Federal-Aid program. Solvency is the root of this issue. The HTF needs to be expanded to become robust enough that it does not struggle and threaten the transportation funding for states that depend on those funds. It is suggested to grow this program, which has made so many good projects possible, resulting in great benefits to our nation. A larger and more stable HTF will provide for the transportation system that our citizens need.

Currently, the HTF is being funded as it was originally intended, but it is not large enough to cover current in-kind life cycle costs, including reconstruction, let alone the expenditures that the traveling public desires and that the states know are warranted. It is in the nation's best interest to increase funding for the HTF to cover the nation's actual surface transportation infrastructure needs such that the program will become dependable and provide more than a "maintenance-only" level of funding.

AASHTO has provided numerous alternative methods to fund transportation to Congress. Between 2013 to 2018, 56 percent of the states passed legislation for gas tax increases according to the National Conference of State Legislatures; we feel the time is right to take this action on a federal level to enhance the HTF.

- *Recommendation:* Stabilize the HTF. Fund the HTF through long-term solutions that provide funding at levels that meet the demand of the economic and mobility needs of our citizens. Such solutions would eliminate the need to use general fund monies to supplement the HTF.

### ISSUE 14-2: Flexibility, Transferability and Set-aside Programs

- *Current Federal Policy:* N/A
- *Issue:* To ensure the most effective use of Federal funding, flexibility of and transferability between the various Federal programs is necessary, especially among the core programs. Many set-aside programs have such strict guidelines for use, or their purposes are so specific, that they simply do not apply to the needs of the state or they cannot easily be applied. In the end, these monies may not be utilized; they sit for years losing buying power, some eventually to lapse and be lost.

Each state has its own individual needs and priorities, and is responsible to its own citizens. States with programs meeting the intent of the various federally-funded programs should have broader trust and agency. The states would be able to make greater use of the federal-aid programs

if there were reductions in both the regulations pertaining to these programs and the sheer number of restrictive, non-applicable set-aside programs.

Each state cares deeply about safety and includes aspects of safety in nearly every transportation project. It could be argued that there is an element of safety in every project dollar. Having safety program money available for use on a more widespread basis does not reduce safety, but applies elements of safety to all projects. State transportation agencies understand how to use their funding for transportation safety without additional oversight, and they should be allowed to do so.

An excellent example of the good that can come from a transfer of federal program monies occurred in 2015 when legislators gave states the ability to repurpose earmarks. This repurposed money totaled about \$2.2 billion nationwide. These funds had been on the books for years, wasting away and becoming less and less effective. Once legislatively allowed, the states quickly repurposed these monies into effective projects improving our infrastructure. Many congressional set-aside programs are similar to the earmarks in this example. The federal transportation programs should be reexamined for need, applicability, and possible transferability to other programs.

- *Recommendation:* The federal transportation programs should be reexamined for need, applicability, and additional transferability to other programs. To help ensure proper performance outcomes, states could develop processes to document their justification for shifting funds among programs.

#### **ISSUE 14-3: Flexibility in Participation Percentages**

- *Current Federal Policy:* N/A
- *Issue:* Core programs with 80, 90, or 100 percent federal-aid participation greatly frees-up dollars that can be used on local projects without the typically restrictive federal rules. This increases the buying power of those dollars, and allows them to be used with greater efficiency. For grant programs, it may be advantageous to have lower participation rates, such as 50/50 match. However, the states should be allowed to choose the level of participation in order to extend the reach of their limited transportation dollars and to use them in the most efficient and effective ways possible.

Similarly, a state may be forced to use a sizeable percentage of its program on set-aside programs in any given year. Since so many of these programs are not one-size-fits-all, the levels of federal funding expenditure should be a choice of the states.

- *Recommendation:* Allow transportation agencies to choose the level of federal share for set-aside programs.

#### **ISSUE 14-4: Railroad/Highway Grade Crossing Safety**

- *Current Federal Policy:* 23 USC 120 and 130
- *Issue:* For the at-grade rail-highway crossing program, there is a conflict between the 23 USC 120 and 23 USC 130. Section 120 allows for 100 percent participation for certain safety projects or projects within Indian reservations, national parks, and monuments. Section 130 sets federal aid participation at 90 percent. Many of the states have been constructing projects at 100 percent participation. Thirty-five states plus the District of Columbia (with the Federal Highway Administration's concurrence) incorrectly authorized 863 projects at 100% rather than at 90% as currently provided in Section 130(f), and thus were required to reimburse the 10 percent difference, totaling over \$26 million. This money had to be paid back into a fund that was described as "difficult to use in the first place." The two sections should be aligned to allow 100 percent participation of Section 130 funds, and make the funding less restrictive to use.

- *Recommendation:* Allow use of 23 USC 130 funds at 100 percent federal participation as indicated in Section 120, and make the funding less restrictive to use.

#### **ISSUE 14-5: Reduction of Regulations**

- *Current Federal Policy:* N/A
- *Issue:* There has been little evidence of effective reductions in regulations to increase, speed up, or streamline project development and construction. There has been much talk of efforts in this direction, and many federal agencies talk as if the problems have been solved. State DOT personnel report a hint of more outward congeniality from some offices, but there still seems to be a great deal of individual interpretation of regulation and enforcement, and the underlying regulations do not appear to have noticeably changed.

For example, the environmental process is a fair process with good intent, but there are many non-controversial situations where the process is unnecessary. Much more work could be accomplished if more burdensome processes were eliminated, and if regulatory agencies would meet review deadlines.

One helpful step that could be accomplished for project delivery would be the ability to purchase right-of-way earlier in the NEPA process without having to prepare a waiver. Many projects die because right-of-way cannot be purchased until the NEPA process is completed.

- *Recommendation:*
  - Make a greater effort to reduce the number regulations hindering the process of project development and construction of transportation projects.
  - Drive regulatory agencies to work with transportation/government agencies with the common goal to complete permitting and work through the NEPA process in a timely manner. Require regulatory agencies to conduct thorough and reasonable reviews within defined timelines.
  - Identify the intent of specific regulations, identify pinch points, and work to reduce the burden on transportation/government agencies, especially for projects of minimal controversy. Establish a framework for project prioritization to allow for state validation in low-risk scenarios.

#### **CROSS-REFERENCE OF RELATED ISSUES IN OTHER WHITE PAPERS**

- ISSUE 3-1: Increase Federal Funding
- ISSUE 3-2: Fix the Federal Highway Trust Fund and Strengthen Federal Transportation Funding
- ISSUE 3-5: Preserve the Current Federal/State Matching Ratio Requirements
- ISSUE 3-6: Increase Flexibility and Transferability of Funding
- ISSUE 6-1: Do Not Increase Any Regulatory Burdens Related to Planning but Rather Look for Opportunities to Reduce Burdens and Unnecessary Requirements While Maintaining a Thorough Planning Process
- ISSUE 6-6: Make More Flexible the Projects that can be Funded through the Congestion Mitigation and Air Quality (CMAQ) Improvement Program
- ISSUE 7-7: Reduce Federal Regulation of State Policies and Procedures Through Reduction of Requirements, Less Frequent Reviews, and Delegation

### Additional Priority Issues of the Council on Highways and Streets

WHITE PAPER	ISSUE
4. Operations	ISSUE 4-1: Strengthen Eligibility for Investments in Transportation System Management and Operations (TSMO) and Related Technology
4. Operations	ISSUE 4-5: Improve Buy America Requirements
1. Connected and Automated Vehicles	ISSUE 1-1: Deploying CAV Technologies in the Safest Manner Possible is Paramount
5. Performance	ISSUE 5-5: Minimum Condition Levels for NHS Bridges and Pavements Could Encourage a Worst-First Asset Management Approach
7. Engineering	ISSUE 7-8: Buy America
6. Planning	ISSUE 6-1: Do Not Increase Any Regulatory Burdens Related to Planning but Rather Look for Opportunities to Reduce Burdens and Unnecessary Requirements While Maintaining a Thorough Planning Process
5. Performance	ISSUE 5-3: Performance Management Regulations Should Be Improved to Reduce the Burden on State DOTs
2. Data	ISSUE 2-1: Unfunded Mandates
5. Performance	ISSUE 5-1: Federal Funding Apportionment Should Not be Tied to Target Achievement
9. Research	ISSUE 9-6: Redefine “Manufactured Products” Requirement within Buy America Law
10. Safety	ISSUE 10-1: Non-infrastructure Eligibilities under the Highway Safety Improvement Program
11. Security/Resilience	ISSUE 11-3: Modify Emergency Relief (ER) Program to be More Flexible and More Responsive to System Resilience Needs
11. Security/Resilience	ISSUE 11-7: Promote Cyber Security Strategies
8. Environment	ISSUE 8-3: Make All Categorical Exclusions Available for Use by Any Federal Agency

# 15: Public Transportation

## INTRODUCTION AND BACKGROUND

The availability of high-quality and high-frequency public transportation services in rural and urbanized areas are a core strategy for enhancing regional and national economic competitiveness. Increased and sustained investments in public transportation infrastructure provides positive economic returns and supports thousands of transit-related manufacturers and suppliers of goods located across the nation. By providing 10.59 billion passenger-trips annually (*APTA 2017 Public Transportation Fact Book, March 2017*), the availability of public transportation services is also essential to achieving personal mobility; enhancing connectivity to employers; and reducing air pollution and other environmental impacts while improving efficiency. As Congress considers the reauthorization of the current federal surface transportation law, Fixing America's Surface Transportation (FAST), AASHTO recommends the following policy and programmatic changes to the Federal Public Transportation Title (Title III).

## SPECIFIC POLICY ISSUES AND RECOMMENDATIONS

### ISSUE 15-1: Retain, Strengthen and Expand the Federal Program for Public Transportation; Retain the Mass Transit Account within the Highway Trust Fund

- *Current Federal Policy:* The FAST Act authorized \$61.1 billion for transit programs with funding provided from both the Mass Transit Account (MTA) of the Highway Trust Fund (HTF) and the General Fund (GF). As of FY 2020, annual HTF outlays are estimated to exceed receipts by \$16 billion in FY 2020, growing to more than \$23 billion by FY 2027.
- *Issue:* Public transportation provides personal mobility that significantly contributes to national goals and policies in support of global economic competitiveness, energy independence, environmental sustainability, congestion mitigation and emergency preparedness. Also, on an individual user basis public transportation saves money, reduces the carbon footprint of households and provides people with choices, freedom and opportunities.
- *Recommendations:*
  - Increase federal funding for both rural and urban area public transportation services to enhance regional and national economic competitiveness and promote community vitality.
  - Prioritize increases in formula-based program funding, including funding to address bus and rail modernization and rural transit, while also providing funds for the non-formula New Start/Small Start program.
  - Implement a long-term sustainable revenue strategy that (1) addresses the insolvency of the federal Highway Trust Fund; (2) preserves a separate Mass Transit Account; (3) proportionately grows the highway and transit programs and mitigates the current infrastructure deficit; and (4) supports new transformative infrastructure investments.
  - Increase the flexibility and transferability of federal highway and transit funding.

### ISSUE 15-2: Maintain the Current Maximum Federal Funding Match Ratios for Public Transit Programs to Support Rural and Urban Communities, Individuals with Disabilities and Seniors and Our Nation's Transit Infrastructure

- *Current Federal Policy:* 49 U.S. Code § 5307, 5309, 5310, 5311, and 5339
- *Issue:* On a national basis, state and local financial support for public transportation services far exceed the current federal support. Nonetheless, the current federal share is essential to ensure

that current services are retained. As such, the federal government should not shift additional costs to states/local governments by reducing the current level of federal participation in operating and capital projects. Congress should honor the existing federal shares authorized for transit operating and capital programs, including the transit New Start program. Lowering the federal share for projects also makes it more difficult to compete for discretionary or flexible highway funds, especially those subject to the Metropolitan Planning Organization process.

- *Recommendation:* Preserve the current federal/non-federal matching ratio requirements for federal-aid eligible transit projects.

#### **ISSUE 15-3: Maintain and grow the Bus/Bus Facility formula and discretionary program**

- *Current Federal Policy:* 49 U.S. Code § 5339(a)(b)
- *Issue:* Section 5339 in MAP-21 created a new hybrid (formula/discretionary) Bus and Bus Facilities grant program. The increased weight given to formula funds was consistent with AASHTO policy emphasizing formula funds. The FAST Act change replaced the previous Section 5309's 100 percent discretionary Bus and Bus Facilities program and provided funding to address extraordinary needs for the rehabilitation and replacement of buses and bus related equipment; and to rehabilitate existing or construct new bus-related support facilities; transfer stations; and intermodal facilities. In FY2018, \$366 million was awarded in discretionary program funds out of a request of \$2.2 billion. This oversubscription shows the strong need to maintain and grow the overall bus and bus facilities program, both formula and discretionary components.
- *Recommendation:* Using current federal funding levels as a baseline for formula and discretionary funds, provide increased formula and discretionary funding. Direct USDOT to consider industry comments, including comments of state DOT's, on criteria for discretionary grants.

#### **ISSUE 15-4: Support the Goals of Safety Management Systems (SMS), the Public Transportation Agency Safety Plan (PTASP), and State of Good Repair (SGR)**

- *Current Federal Policy:* 49 U.S. Code § 5329 outlines U.S. DOT's mandate to implement a public transportation safety program with numerous components including National Public Transportation Safety Plan, Safety Certification Training Program, Agency Safety Plan and State Safety Oversight Program. In 2018, FTA issued a final rule implementing the Public Transportation Agency Safety Plan.
- *Issue:* The Public Transportation Agency Safety Plan (PTASP) final rule requires those transit agencies affected by the rule to incorporate SMS policies and procedures into final Safety Plans. While state DOTs support the federal goals of Safety Management Systems (SMS), PTASP, and State of Good Repair, without authorizing a source of funding for implementation, an unfunded mandate has been created and imposed upon states and their sub-recipients. The PTASP final rule defers FTA Sections 5310 and 5311-only providers from having to comply with the new rule. Reauthorization is an opportunity for Congress to eliminate this uncertainty by formally exempting FTA Sections 5310 and 5311 providers from the requirements.
- *Recommendation:* Codify the current the PTASP exemption for FTA Section 5310 and 5311 providers and provide funding to support implementation for systems receiving funding from the Urbanized Area Formula Program (49 U.S.C. 5307) and have "100 or fewer" vehicles in 'peak' revenue service.

#### **ISSUE 15-5: Establish a New Four-year Pilot Program that Combines Requirement Certification under the Buy America Program with the Altoona Test Requirements, Creating One Set of Certifications with the Federal Transit Administration**

- *Current Federal Policy:* Processes outlined in 49 CFR Part 661 (Buy America) and 49 CFR Part 665 (Model Bus Testing Program) are inefficient and costly for state departments of transportation and bus manufacturers.
- *Issue:* AASHTO's Council on Public Transportation is supportive of the Buy America program, which mandates, according to 49 CFR 661 (§ 661.13 Grantee responsibility), that all funding recipients of the Federal Transit Administration (FTA) purchasing vehicles must verify that the manufacturer has complied with Buy America program requirements, including pre- and post- award inspections. However, prior to transferring ownership of the vehicle(s), bus manufacturers must also submit to the Model Bus Testing Program or the Altoona Test (49 CFR Part 665).
- *Recommendation:* Establish a new pilot program that would require the manufacturer to directly provide a single certification to the Federal Transit Administration demonstrating compliance with Buy America and Altoona Test requirements.

**ISSUE 15-6: Congress Should Direct the Government Accountability Office to Study Streamlining the Federal Transit Grant Approval Process**

- *Current Federal Policy:* None
- *Issue:* State DOTs are required to submit a unified program of projects to FTA to authorize the use of funds for a wide range of activities. The program of projects may include routine and recurring activities such as the replacement of bus and bus related equipment as well as more complex activities, including but not limited to construction of new facilities or deployment of new technologies. Frequently, approval of routine and recurring activities in a grant are held up while FTA works through issues pertaining to new initiatives. To speed project delivery and reduce delays in the procurement of routine and recurring activities, AASHTO is proposing that GAO review and provide recommendations on streamlining/expediting the current approval process.
- *Recommendation:* Direct the Government Accountability Office to study the federal transit grant approval process for routine and recurring procurements (e.g., buses) and provide recommendations to Congress and U.S. DOT on effective strategies for streamlining existing processes/practices.

**ISSUE 15-7: Reauthorize the Transit Cooperative Research Program**

- *Current Federal Policy:* 49 U.S. Code § 5312 - Public transportation innovation
- *Issue:* Research conducted through the Transit Cooperative Research Program (TCRP) and directly by the FTA remains a high priority for states. These activities promote best practices and facilitate the deployment of new technologies, thereby enhancing increases in operational efficiency. In support of these efforts, TCRP, as outlined under “§ 5312 Public transportation innovation” of the 2015 FAST Act, should be reauthorized.
- *Recommendation:* Preserve and enhance funding to support the Transit Cooperative Research Program.

**ISSUE 15-8: Enhance Opportunities and Streamline Regulations for State DOTs and Transit Providers to Partner with Technology and Other Companies to Improve the Service Delivery to Communities**

- *Current Federal Policy:* None
- *Issue:* State DOTs remain committed to improving public transportation services for our nation's most vulnerable populations, including elderly individuals, individuals with disabilities, and disabled veterans. The traditional method of fixed-route or route deviation services, however, may not be the most effective or appropriate service model for individual mobility needs, especially in remote or rural areas. In cases, some federal regulations are viewed as potential obstacles to such

partnerships. To enhance customer-focused access to health care, first-mile/last-mile connectivity and better accessibility the FTA should work with states and service providers to partner with and integrate the eligibility of app-based transportation services.

- *Recommendation:* Authorize the use of new technologies and services (e.g., Transportation Network Companies) to support the provision of federally-aided public transportation services.

#### **ISSUE 15-9: Expanding Research Grants and Funding to Explore Mobility Opportunities Through Connected and Automated Vehicle Technology**

- *Current Federal Policy:* None
- *Issue:* State DOTs hope that the Federal Transit Administration's Strategic Transit Automation Research (STAR) plan results in greater innovation and improvements in transit service delivery to urban and rural communities and for those most in need of mobility assistance. Connected and Automated Vehicle (CAV) technology deployment is an unprecedented opportunity to improve service delivery. Notwithstanding, state DOTs are looking to FTA to research, test and safety deploy these emerging technologies. FTA research should also include an assessment of the impact of CAVs on labor; opportunities to retrain existing employees and train the employees needed in the future to maintain and support these technologies; and assess the infrastructure needed to support deployment. State partnerships with FTA are critical to success of the STAR plan's implementation.
- *Recommendation:* Provide funding for; expand research in; and facilitate the deployment of CAV technology to enhance mobility alternatives for individuals that may be unable to use or are not served by traditional public transportation services.

#### **ISSUE 15-10: Encourage Ongoing Federal and State Coordination of the Coordinated Council for Access and Mobility**

- *Current Federal Policy:* FAST Act Section 3006(c) Coordinated Mobility
- *Issue:* Established in 2004 by Executive Order 13330, the Coordinated Council for Access and Mobility (CCAM) is a federal interagency transportation council that serves to improve mobility, employment opportunities and access to community services for persons who are transportation-disadvantaged. Chaired by Secretary of Transportation, the CCAM is comprised of eight cabinet level departments, the Social Security Administration and the National Council on Disability. In 2015, Congress codified the CCAM in the FAST Act (Section 3006(c)), calling for a strategic plan that outlines roles and responsibilities of each interagency member, addresses recommendations concerning local coordination of transportation services and proposes changes to federal and regulations that will eliminate barriers to local transportation coordination. CCAM is vital to the future of federal-state coordination of human services transportation and its work has only begun.
- *Recommendation:* Support the U.S. DOT's and Federal Transit Administration's efforts to develop and lead the Coordinating Council on Access and Mobility (CCAM) and encourages Congress to promote the cooperative, ongoing collaborative efforts at the federal and state level in the authorization of surface transportation programs.

#### **ISSUE 15-11: Support the Commuter Tax Benefit and Restore the Employer Deductible for Transportation Fringe Benefits to Employees**

- *Current Federal Policy:* None
- *Issue:* The Commuter Tax Benefit is an employer-provided, transportation fringe benefit that can cover the costs of an employee's commute up to a monthly cap of \$260 (as of 2018) by transit or vanpool or up to \$20 per month by bicycle. The benefit can also be used for the cost of qualified parking (with a separate monthly cap of \$260). The benefit can be offered pretax, as a subsidy, or in

combination. However, Congress limited the benefit in the Tax Cuts and Jobs Act of 2017 by restricting an employer's ability to deduct the cost of providing the benefit. While recognizing the value of the commuter tax benefit by retaining key elements, including the personal deduction for employees and allowing employers the ability not to pay payroll taxes on the amount provided, Congress also created new tax liabilities for tax-exempt entities that offer transportation benefits.

- *Recommendation:* Restore the employer-provided tax deduction for offering pre-tax transit benefits (referred to as Qualified Transportation Fringe Benefits); and make permanent at the level of deduction no less than that provided for parking.

#### **ISSUE 15-12: National Transit Database Reporting**

- *Current Federal Policy:* 2018 NTD Policy Manual – Commuter vs. Intercity Service
- *Issue:* In 2018, FTA issued new policies for the 2018 National Transit Database reporting year. Included in the new reporting policies was a provision that redefined commuter bus, rail, and ferry services of more than 90-minutes in duration as intercity service. The new reporting policies require the sponsor of such services to conduct extensive and expensive statistical analysis to qualify for commuter eligibility/meet NTD reporting thresholds. The 90-minute trip duration is arbitrary in that it does not take into account the effects of traffic/related congestion; availability of or proximity to affordable housing; and/or other economic factors impacting commute times for individuals that choose to use public transportation services.
- *Recommendation:* Prohibit the Federal Transit Administration (FTA) from implementing National Transit Database (NTD) policy changes and reporting clarifications for Report Year 2018 pertaining to commuter vs. intercity services. This prohibition shall be effective as of October 1, 2018, until repealed.

#### **ISSUE 15-13: Cooperative Procurements**

- *Current Federal Policy:* FAST Act Section 3019 – Innovative Procurement
- *Issue:* State Departments of Transportation include specifications based on a variety of factors when creating a procurement contract for rolling stock and/or equipment. The factors are inherent to the state and its region, including geographic considerations of use. Section 3019 of the FAST Act introduced new language affecting the procurement process when using federal funding. By definition, states that wish to enter into a cooperative procurement contract (State Cooperative Procurement Schedules) initiated under Section 3019, must allow grantees across the United States (regardless of location or proximity to the contract parties) to access and purchase vehicles and equipment off its master schedule contract. This provision can create an efficient and cost-effective method for vehicles and equipment procurement. However, this provision has created a new challenges and concerns for states that enter into cooperative procurements. Some of those challenges include, but are not limited to: the ability of vendors to meet the vehicle and equipment needs of sub-recipients in a timely manner within the contracting state. The contracting state is investing significant resources to support out-of-state demand with only the ability to charge no more than one percent for administrative fees, a benefit that provides little benefit to the state's transportation system. Another challenge/concern involves the procurement rules or regulations of individual states that may prohibit the sale of vehicles and equipment to other states. Also, the vehicles and equipment included in the master schedule contract may include unique, geographical location specifications not suitable for grantees throughout the United States.
- *Recommendation:* Clarify the intent of Section 3019 Innovative Procurement and its cost-effective, efficient procurement tools while adding flexibility for states. Change the mandatory language to permissive language, granting the contracting states the flexibility and ability to prioritize vehicle

and equipment needs of (1) in-state sub-recipients, (2) regional grantees and (3) other grantees outside of the contracting state's region. Region is defined as FTA regions.

#### **CROSS-REFERENCE OF RELATED ISSUES IN OTHER WHITE PAPERS**

- Issue 1-5: State DOTs Need Additional Funding and Flexibility in Order to Deploy CAV Technologies and Accommodate CAV Vehicles
- Issue 1-7: The Deployment of CAVs Will Continue to Require a Collaborative Approach
- Issue 3-2: Fix the Federal Highway Trust Fund and Strengthen Federal Transportation Funding
- Issue 3-5: Preserve the Current Federal/State Matching Ratio Requirements
- Issue 3-6: Increase flexibility and transferability of funding
- Issue 3-7: Maintain the current balance of funding among highways, transit, and highway safety

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# 16: Rail Transportation

## INTRODUCTION AND BACKGROUND

Rail transportation is a vital component of the nation’s multimodal transportation network. Whether transporting passengers or freight, a dependable rail network requires comprehensive legislation to support safe, efficient and cost-effective mobility. The AASHTO Council on Rail Transportation has identified specific policy issues and recommendations related to passenger rail. This white paper presents recommended policies for consideration by the AASHTO Transportation Policy Forum.

## SPECIFIC POLICY ISSUES AND RECOMMENDATIONS

### ISSUE 16-1: States as Railroads

- *Current Federal Policy:* 49 U.S.C §270
- *Issue:* The System Safety Program works to improve railroad safety through structured, proactive processes and procedures developed and implemented by railroads. It applies to “Railroads that operate intercity or commuter passenger train service on the general railroad system of transportation and railroads that provide commuter or other short-haul rail passenger train service in a metropolitan or suburban area (as described by 49 U.S.C. 20102(2)), including public authorities operating passenger train service.” (49 U.S.C. §270.1) State DOTs are committed to safety, service quality, and reliability of the rail network; however, it is important to clarify that States, and political subdivisions of States, who sponsor, but do not operate intercity passenger rail services, are not railroads nor are they railroad carriers. This clarification is critical as States do not need to endure additional regulatory burdens as they endeavor to utilize the rail mode as part of the nation’s multimodal transportation network.
- *Recommendation:* In 2017, Senator Deb Fischer (R-NE) introduced the Railroad Advancement of Innovation and Leadership with Safety (RAILS) Act. Section 225 of the bill includes language that clarifies that States are not rail carriers if they do not operate a rail service. AASHTO recommends the language be incorporated into reauthorization:

#### **SEC. 225. APPLICABILITY TO STATES.**

Not later than 180 days after the date of the enactment of this Act, the Secretary shall revise part 270 of title 49, Code of Federal Regulations, to exclude a State, or a political subdivision of a State, that provides equipment, track, right-of-way, or financial support for intercity passenger service pursuant to section 209 of the Passenger Rail Investment and Improvement Act of 2008 (division B of [Public Law 110-432](#); [49 U.S.C. 24101](#) note) if such State or political subdivision does not directly operate such service.

### ISSUE 16-2: Amtrak National Network and Amtrak Northeast Corridor

- *Current Federal Policy:* 49 U.S.C. §11101
- *Issue:* In December 2015, for the first time in U.S. transportation legislation history, Amtrak reauthorization was included as part of the federal surface transportation bill. A total of \$8.05 billion of funding is authorized for Amtrak grants for FY2016 – 2020. The FAST Act departs from the previous Amtrak funding allocation method of capital and operating grants and now provides funding that corresponds with Amtrak’s main business lines – the Northeast Corridor and the National Network. A total of \$2.596 billion is authorized for Amtrak projects along the Northeast

Corridor and \$5.454 billion for projects along the Amtrak National Network. Amtrak operates a nationwide rail network, serving more than 500 destinations in 46 states, the District of Columbia and three Canadian provinces, on more than 21,400 miles of routes. It is essential to maintain Federal financial support sufficient to enable the operation of the long distance passenger train network at least at current levels, which would help ensure that many states and regions are connected to the rail and transportation system and maintain a national passenger rail network. It is also important to maintain Federal financial support for Amtrak's Northeast Corridor as it is the busiest railroad in North America, with approximately 2,200 Amtrak, commuter and freight trains operating over some portion of the Washington-Boston route each day.

- *Recommendation:* Reauthorize funds for the Amtrak National Network and the Amtrak Northeast Corridor in order to continue efficient and effective passenger rail mobility.

### **ISSUE 16-3: High-speed, Intercity, Passenger, and Freight Rail Grants**

- *Current Federal Policy:* 49 U.S.C. §11301, §11302, §11303
- *Issue:* A total of \$2.2 billion is authorized for FY 2016 – 2020 for rail funding in the FAST Act through the Consolidated Rail Infrastructure and Safety Improvements Grant (CRISI, §11301), The Federal-State Partnership for State of Good Repair Grant Program (SGR, §11302), and the Restoration and Enhancement Grant Program (R&E, §11303). The bullets below highlight authorized fund amounts, program eligibility requirements, and recommended language to support cross border investment as State DOTs need the ability to expand the grant funds over the border in Canada to enhance intercity passenger rail service:
  - The Consolidated Rail Infrastructure and Safety Improvements Grant Program authorizes \$1.1 billion for projects that aim to enhance safety, efficiency and reliability of passenger and freight rail transportation systems. There is broad project eligibility that focuses on capital, regional and corridor planning, research, workforce development, training projects, and environmental analyses including plans or analyses that would extend services into Canada.
  - The Federal-State Partnership for State of Good Repair Grant Program authorizes \$997 million for capital projects to replace or rehabilitate qualified railroad assets and ultimately reduce the current state of good repair backlog. Projects may include enhancements to commuter rail service, however, each project, at a minimum, must demonstrate enhancements to intercity passenger rail service or assets. The eligible activities include capital projects to replace existing assets in-kind or with assets that increase capacity or service levels; ensure that service can be maintained while existing assets are brought into a state of good repair; and bring existing assets into a state of good repair.
  - The Restoration and Enhancement Grant Program authorizes \$20 million each year from FY2016 – 2020 for operating assistance to initiate, restore, or enhance intercity passenger rail service. The grants are limited to three years of operating assistance per route and may not be renewed. It is recommended that the program priorities include new frequencies on pre-intercity passenger rail corridors and service restoration expansion into Canada.
- *Recommendation:* Reauthorize the Consolidated Rail Infrastructure and Safety Improvements Grant Program, State of Good Repair Grant Program, and the Restoration and Enhancement Grant Program at no less than FY19 funding levels and support cross border investment.

### **ISSUE 16-4: Federal – State Committees**

- *Current Federal Policy:* 49 U.S.C. §11204, §11305, §24101
- *Issue 4a* (§11204): State-Amtrak Intercity Passenger Rail Committee (SAIPRC) was established under the FAST Act to further implement Section 209 of the Passenger Rail Investment and Improvement

Act of 2008 (PRIIA) and to promote mutual cooperation and planning related to Amtrak's rail operations and related activities on State-supported routes. SAIPRC members represent Amtrak, the Federal Railroad Administration, and 21 agencies in 18 states responsible for funding 29 Amtrak routes. State-Supported Intercity Passenger Rail (IPR) Services are Amtrak routes 750 miles or less outside the Northeast Corridor (which runs from Boston to Washington). Per federal statute, states are responsible for funding the costs of each state-supported route. Altogether, the 29 State-Supported IPR Services carry approximately one-half of all Amtrak riders nationwide and represent an important and growing part of the Amtrak national network. States contribute approximately \$750 million in ticket revenue and direct payments to Amtrak. Over ten years, ridership on the State-Supported IPR Services has grown by 25%. It is important that Congress reauthorize SAIRPC to continue the partnership working to promote innovative practices and investment programs that support a vibrant and efficient State and national passenger rail network to meet the growing needs of traveling public and encourage economic growth.

- *Recommendation:* Reauthorize the State-Amtrak Intercity Passenger Rail Committee.
- *Issue 4b (§11305):* Congress authorized the Northeast Corridor Commission (NEC) in the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) and charged it with developing a formula to allocate NEC capital and operating costs based on usage, making recommendations to Congress, and facilitating collaborative planning. The Commission is comprised of members from each of the NEC states, Amtrak, and the U.S. DOT, with non-voting representatives from freight railroads and states with connecting corridors. Following authorization in 2008, the Commission was chartered in 2010 to focus on near-term strategies to stabilize the NEC and establish a foundation for future growth through unified regional action. The NEC is the busiest rail corridor in the United States, carrying over 800,000 daily weekday riders on over 2,000 daily commuter and intercity trains. The NEC is a critical link for Amtrak and the eight commuter railroads to the major economic centers of the Northeast. One half of all Amtrak riders nationwide utilize the NEC and almost two thirds of all commuter rail riders in the NEC Region rely on the NEC for some or all of their trip. The NEC rail network is an engine of economy activity for the United States. It is important that Congress reauthorize the Commission because the platform is vital to the successful development and implementation of an effective network on the Northeast Corridor.
- *Recommendation:* Reauthorize the Northeast Corridor Commission.
- *Issue 4c (§24101):* The Passenger Rail Investment and Improvement Act of 2008 directed Amtrak, states, FRA and industry to establish the Next Generation Corridor Equipment Pool Committee (NGEC) to standardize and streamline the process for designing and obtaining next-generation passenger rail equipment purchased with federal funding. NGEC is the national leader in standardization, acquisition, financing and management of passenger rail equipment. The Committee effectively developed 6 specifications that focus on single level car, bi-level car, single level train sets, diesel-electric locomotive, diesel multiple units, and dual-mode locomotive. Its document control procedures enable a review of the use of specifications and requests for modifications in order to continuously improve these specifications as new developments are conceived in vehicle production/manufacturing. The Committee has succeeded in lowering operating and maintenance costs and extending vehicle life expectancy. Lastly, NGEC sparked domestic production, invigorated the supply chain and created high-wage jobs. It is important that Congress reauthorize the committee in order to improve future equipment needs.
- *Recommendation:* Reauthorize the Next Generation Corridor Equipment and Pool Committee.

#### **ISSUE 16-5: Operation Lifesaver, Inc.**

- *Current Federal Policy:* 49 U.S.C. §1418

- *Issue:* Operation Lifesaver, Inc. (OLI) is a nonprofit public safety education and awareness organization dedicated to reducing collisions, fatalities and injuries at highway-rail crossings and trespassing on or near railroad tracks. With a nationwide network of passionate volunteers, OLI provides free safety presentations and creates education programs and public awareness campaigns to reach audiences of all ages. The organization reached 2.1 million people directly via 21,226 safety presentations, 245 training sessions and 1,821 special events conducted by state programs nationwide in 2017. In addition, 333 CDL drivers and 1,912 school bus drivers were exposed to OLI's online eLearning safety programs during the year. It is important for Congress to support OLI to promote education, enforcement and engineering to keep people safe around tracks and railway crossings.
- *Recommendation:* Reauthorize Operation Lifesaver, Inc.

#### **ISSUE 16-6: Section 130 – Railway Highway Crossing Program**

- *Current Federal Policy:* 23 U.S.C. §130
- *Issues:* The Railway-Highway Crossings (Section 130) Program provides funds for the elimination of hazards at railway-highway crossings. The FAST Act authorized \$305 billion over the FY 2016 – 2020. The Section 130 Program has been correlated with a significant decrease in fatalities at railway-highway grade crossings. Since the Program's inception in 1987 through 2014, for which most recent data is available, fatalities at these crossings have decreased by 57 percent. The Section 130 issues are highlighted below:
  - *Funding:* There was confusion regarding federal-local contribution matches for Section 130 eligible activities. Section 130 is funded at a 90% Federal contribution and 10% local matching contribution; however, 23 U.S.C 120 emphasizes a federal share up to 100% for certain highway safety projects, which includes certain railway-highway crossing closures. With two similar but different provisions, 35 states plus the District of Columbia incorrectly authorized projects at 100% federal match under Section 120 rather than the 90% match under Section 130. The FHWA is now requiring states to reimburse the federal aid program for the differential amount on rail-highway crossing authorized above the 90% share on or after April 14, 2016, which totals over \$26 million. Furthermore, many railway-highway crossing projects are located in rural areas off the state highway system. Most of these small cities and counties do not have the financial resources to match the cost of these projects. Furthermore, many state transportation agencies do not have the authority in state law to provide matching highway funds for projects off of the state highway system. As a result, funding is inaccessible at rural locations where railway-highway crossing projects are mainly located.
  - *Incentive Payment:* States and railroads may make incentive payments of up to \$7,500 for the permanent closure of railway-highway grade crossings. Although there are set aside funds to help incentivize communities to close grade crossings, the \$7,500 limit is not enough to convince officials to support closing as these projects are substantially more expensive.
  - *Eligible Activity:* Section 130 funding is not allowed for the replacement of functionally obsolete warning devices. It is imperative to include funds for their replacement because they are imperative to the safe and efficient operation of railway-highway grade crossings.
- *Recommendations:*
  - Increase federal match for Section 130 program to 100% federal share similar to many other highway safety programs.
  - Increase the limit of \$7500 incentive payment of Section 130 funds for the closing of a highway/railway grade crossing to \$100,000.
  - Add eligibility of Section 130 funds for the replacement of functionally obsolete warning devices.

**CROSS-REFERENCE OF RELATED ISSUES IN OTHER WHITE PAPERS**

[To be filled later]

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