AASHTO POLICY RECOMMENDATIONS ON KEY SURFACE TRANSPORTATION PRIORITIES

July 2021

Introduction

President Biden's American Jobs Plan and Senate Republicans' Roadmap on infrastructure are critical first steps in a bipartisan conversation about a generational investment to help address very large surface transportation infrastructure investment backlogs while addressing climate change, resiliency and equity. The goal of these multimodal investments is to address transportation infrastructure needs that support improved national competitiveness and quality of life through innovative, safer and cleaner mobility options for decades to come.

America's state departments of transportation (state DOTs) look forward to playing a leading role with the Administration and Congress on transportation infrastructure policies, as part of the surface transportation reauthorization process or as part of separate legislation.

It is important that proposed policies in this white paper be considered not in isolation, but in the context of the core surface transportation reauthorization principles adopted by AASHTO, which are:

- Ensure timely reauthorization of long-term federal surface transportation legislation;
- Enact a long-term, sustainable revenue solution for the Highway Trust Fund;
- Increase and prioritize formula-based federal funding provided to states;
- Increase flexibility, reduce program burdens, and improve project delivery; and
- Support and ensure state DOTs' ability to harness innovation and technology.

In addition, any proposals for new discretionary programs should be limited, in order to increase and prioritize formula-based funding distributed to states, increase flexibility, and reduce program burdens.

Within that framework, additional issues are discussed below.

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Equity

AASHTO and its state DOT members acknowledge the actions of the past—in programming, planning, design, construction, operations, and maintenance of state transportation systems—which often disproportionally negatively affected low-income communities, minority neighborhoods, and people of color, and the legacy of those actions persist in disparities today.

State DOTs strive to serve as stewards of an integrated, multimodal transportation system that achieves economic, environmental, and social goals set by the representatives of the people we serve. Through a unanimous Board resolution last year, AASHTO and state DOTs committed to hold ourselves accountable for engaging in the vital work of advancing racial justice, equity, diversity, and inclusion as individuals and as an institution.

State DOT leaders pledge to approach these efforts with humility, introspection, and respect, being mindful of the importance of listening to and learning from those most adversely affected by past decisions. AASHTO's members understand that these measures depend on collaboration with all relevant stakeholders, including government, transportation partners, and the communities they serve.

As such, state DOTs pledge to continue to collaborate closely with national, state, tribal, and regional organizations focused on these issues:

- Strengthen our commitment to the Civil Rights Act of 1964 and associated statutes, seeking to protect all people from discrimination based on race, color, religion, sex, national origin, disability, or age, and seeking to advance those goals in the delivery of our programs and services, working with our business partners and community and faith-based organizations;
- Enhance decision-making processes focused on advancing racial justice and incorporating equity, diversity, and inclusion in all aspects of transportation, including, but not limited to investment priorities, policy development, project and program delivery, environmental justice, or in other areas, through more effective public engagement processes, especially in historically underserved communities;
- Improve contracting and procurement practices to remove barriers and create opportunities for Disadvantaged Business Enterprises and people of color so that they may participate in the economic benefits derived from transportation investments;
- Create additional strategies to improve recruitment, hiring, promotion, training, leadership development, and retention of and support for a workforce at all levels that reflects the communities we serve, through efforts including more robust outreach to educational institutions and community and faith-based organizations traditionally serving people of color;
- Ensure state DOT staff are provided workforce development and other training opportunities to develop competencies and create organizational accountability for promoting equity, diversity, and inclusion to address racism and inequality, and;
- Foster inclusive workplaces where discrimination and bias are not tolerated, where staff have redress for bias-related harms they experience or witness, and where staff at all levels are empowered to speak up against discrimination on behalf of themselves, their colleagues, and the communities we serve.

Recommendations:

- AASHTO supports efforts to redress historic inequities in building the future of transportation infrastructure. A federal program designed to reconnect communities separated by infrastructure barriers should be flexible to consider needs in both urban and rural areas, and decisions on how to address such barriers should be provided to the owners and operators of infrastructure such as state DOTs.
- AASHTO supports efforts to invest in job training for formerly incarcerated individuals and justice-involved youth and in improving public safety by supporting creating pathways to higher-skilled transportation-related jobs for reentrants.
- AASHTO supports establishment of a task force with state DOT representation to provide recommendations to address current and future needs of the transportation workforce, factors and barriers influencing and attracting individuals to transportation careers, barriers to retraining individuals in transportation careers, potential impacts of emerging technologies, access for vulnerable or underrepresented populations to high-skill, in-demand careers, elementary, secondary, and post-secondary students to pursue transportation careers, and pathways for students and individuals to secure work-based learning opportunities in the surface transportation sector.
- 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 determined more than a decade ago that additional guidance was necessary to address conditions and constraints unique to public rights-of-way by developing the Public Rights of-Way Accessibility Guidelines (PROWAG). PROWAG addresses 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 should be finalized as it 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.
- AASHTO supports bringing all passenger rail and transit stations and access to those stations to Americans with Disability Act standards.
- Equity is a major concern regarding electric vehicle charging infrastructure placement as well as the cost of EVs. Any proposed grants/incentives should include requirements to address equity of charging placement and access: the priority should be to place public charging infrastructure in places where it currently does not exist or where people do not have garages/the ability to charge at home (for example, places in urban areas with on-street parking or in rural areas where placement would help expand the EV charging network). In addition, Disadvantaged Business Enterprises (DBEs) and communities should be provided a level playing field to participate in electric vehicle charging infrastructure contracting and procurement opportunities.
- Congress should consider support for managed relocation due to climate change and extreme weather. This adaptation strategy is often considered for routes in rural areas and would affect underserved communities.
- It is critical to stress the need to invest in and deploy zero-emission buses and the associated fueling and charging infrastructure in small urban communities and rural areas as well as specialized transit vehicles for persons with disabilities, seniors and veterans with disabilities.

Safety

Safety remains priority number one for every state DOT. AASHTO has adopted "Toward Zero Deaths: A National Strategy on Highway Safety" as its strategic highway safety plan and is supporting member departments to implement traffic safety culture and more fully deploying proven safety countermeasures. Many states have adopted the concept of zero fatalities and are using resources developed by one or more zero-based programs.

States' strategic highway safety plans guide their safety programs. Safety emphasis areas are prioritized, and strategies are identified using data and stakeholder input. States' processes to develop and update their SHSPs are subject to FHWA approval. SHSPs cover the breadth of states' safety issues, regardless of the contributing factors (roadway environment, vehicle, or road user behavior). Common emphasis areas include vulnerable users including pedestrians and bicyclists, roadway departure, work zones, rural roads, school zones, and others. The Highway Safety Improvement Program funds are directly linked to the SHSPs in that to be eligible for HSIP funds, infrastructure-based safety strategies must be included in the SHSP. Beyond the HSIP, the states invest much more on safety through inclusion of safety countermeasures in many road and bridge projects funded under other Federal-aid highway programs, including projects using state funds.

Recommendations:

- The federal program should expand flexibility for states to address all fatality and injury risks, as states need the flexibility to prioritize and address their traffic fatality and injury-related needs in a manner that best serves all road users in the entire state.
- That being said, specific programs, initiatives, or concepts related to the elimination of fatalities and serious injuries can help agencies organize and bolster their safety efforts and provide technical and policy support as long as states have the option of participating in such programs and the programs do not prescribe specific methods and countermeasures that may not be appropriate in all states, contexts, or situations.
- The SHSPs should remain as the umbrella documents to coordinate multidisciplinary safety efforts in each state and to guide the use of HSIP.
- HSIP should look to continue providing states with maximum flexibility to determine the most appropriate manner in which to address safety needs for all road users, and should maintain HSIP eligibility for all safety strategies.
- HSIP should also support states' flexibility to adopt a safety vision, goals and targets that best suit their needs and should also support their flexibility to develop their own guidance and resources to work toward their own vision, goals, and targets and to use any resources from any source that may be appropriate.
- HSIP eligibilities should be expanded to include innovative countermeasures and programs to address safety concerns in all contexts (grade crossings, work zones, school areas, rural roads, urban areas, etc.) and to restore MAP-21 eligibilities for HSIP on non-infrastructure safety activities.
- AASHTO encourages federal support of flexible design practices by states including, but not limited to complete streets, context sensitive design, safe systems, and practical design. These transportation policy and design approaches require streets to be planned, designed, operated and maintained to enable safe, convenient, comfortable, and cost-effective travel and access for users of all ages and abilities regardless of their mode of transportation. The federal program should provide technical and policy support and periodic reviews of federal requirements that may hinder adoption and

implementation of these design practices. Prescriptive requirements that do not recognize the local context and preferences may discourage states from adopting the most effective approaches for their programs. Design flexibility is essential to consider and mitigate effects of both past and future projects on racial equity and barriers to opportunity, including automobile dependence as a form of barrier.

- AASHTO supports the American Jobs Plan's call for "increases to existing safety programs" and would be interested in helping to define the "new Safe Streets for All program," both to improve safety and avoid prescriptive approaches that would limit state flexibility

Transit

State DOTs play a key role in ensuring transit capital investment and operations in every part of the country. State DOTs serve as a direct recipient of federal transit funding for small urban and rural communities and for transit service in local communities for persons with disabilities, seniors and veterans with disabilities. Overall, the success of state transit programs relies on the strong federal-state funding partnership. In 2019, the federal government provided about $11 billion while cumulatively, states provided about $20 billion.

State DOTs are actively involved in the work of the federal Coordinating Council on Access and Mobility. Many state DOTs already oversee a state-level coordinating council. State DOTs are leaders in the procurement of buses for transit agencies in small urban and rural communities and will be instrumental in zero-emission bus deployment, including electric-powered buses, in these communities. As a result of transit asset management planning, state DOTs are leading the replacement of transit vehicles that are beyond useful life.

Recommendations:

- Within urbanized areas of more than 200,000 in population, federal formula funding for transit should prioritize the extent and use of service.
- It is critical to stress the need to invest in and deploy zero-emission buses—along with associated fueling and charging infrastructure and maintenance training and equipment—in small urban and rural areas, as well as specialized transit vehicles for persons with disabilities, seniors and veterans with disabilities.
- Any procurement reforms must acknowledge that rules and regulations for transit vehicle and equipment procurement differ in each state, and that extensive resources are involved in developing statewide procurements considering a variety of factors inherent to the state when developing statewide procurement.
- Federal rural transit funding should increase flexibility to support partnerships with other forms of federal transit assistance such as Medicare.
- With declining purchasing power of existing program funding thresholds over time, funding minimums for Capital Investment Grants including Small Starts and New Starts should be increased.
- Transit operations should be funded at 80 percent federal share on par with other forms of federal transit support.

Passenger Rail

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 28 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 in 2019 contributed approximately $750 million in ticket revenue and direct payments to Amtrak. Over the last ten years, ridership on the State-Supported IPR Services has grown by 25 percent.

In addition to Amtrak, states continue to partner with the private sector to plan and operationalize passenger rail via public-private partnership efforts.

Passenger rail promotes reductions in greenhouse gas emissions and provides cost-effective access to transportation mobility options.

Recommendations:

- AASHTO supports the continued eligibility in federal rail grant programs for state of good repair backlog projects on the Northeast Corridor and the National Network, including the replacement of locomotives and other passenger rail equipment.
- AASHTO supports establishing new or improved intercity, commuter or higher-speed passenger rail corridors with grants to states for operating and capital assistance. Similar to federal operating subsidies for Amtrak, such support could help provide service to new markets or markets that are currently underserved by other modes of transportation.
- AASHTO supports bringing all passenger rail stations and access to those stations to Americans with Disability Act standards.
- AASHTO supports grant eligibility for grade separation projects and to address freight capacity projects through the existing Consolidated Rail Infrastructure and Safety Improvements (CRISI) grants.
- AASHTO strongly supports updating federal legislation to clarify that states are not rail carriers if they do not operate a rail service.
- AASHTO supports enhanced investment and expanded eligibility for projects that mitigate or eliminate the risk of railway-highway grade crossing, including:
    - Implementing measures that mitigate trespass fatalities/injuries.
    - Increasing the maximum federal share of certain projects from 90 percent to 100 percent.
    - Increasing the maximum incentive amount for crossing closures from $7,500 to 100,000.

Resilience

As a major priority, state DOTs strongly support development of a more resilient transportation system that has the ability to protect against, respond to, recover from, or mitigate against natural disasters, acts of terrorism, and other man-made disasters.

In addition to climate change, state DOTs are taking a broader definition of resilience to include an all-hazards approach that would not limit resilience to only natural disasters, but also man-made events such as cyberattacks. An all-hazards approach enables a state DOT to examine all potential incidents that pose

the greatest risk to its transportation system. As such, limiting the definition of resilience to only natural disasters misses threats to system resilience from other potential man-made events.

The top three challenges, in order, to addressing the threats and hazards to the transportation system are lack of funding, staffing, and technical knowledge. Overwhelmingly, state DOTs need additional federal funding for existing programs, as narrowly defined funding has created failings in the past.

Recommendations:

- Congress should recognize that when it comes to resilience, states' readiness can vary widely.
- The definition of resilience is critical and should not be limited simply to the ability of an asset not failing during certain events (e.g., a bridge strike or a category five hurricane); rather, it should also include eligibilities for a project or activity to:
    - Anticipate, plan and adapt to potential risks,
    - Withstand, respond to, or recover when an event occurs, and;
    - Construct and maintain assets that decrease project vulnerability risks.
- Congress can support improved resilience by expanding current core formula program eligibilities to include resilience improvements.
- Congress could consider a formula funding set-aside focused on resilience-related planning and coordination and evacuation, but without highly prescriptive resilience planning requirements.
- If Congress prefers a discretionary grant program, funding for formula programs should be increased at the time to maintain the same approximate balance between formula and non-formula programs.
- The following concepts could be included as eligibilities related to resilience. Only one needs be met; there is no intent that a project must meet all eligibility concepts:
    - Better incorporating resilience into the planning process
    - Better incorporating resilience into design standards
    - Better incorporating resilience into operations plans
    - Engineering new assets that are more resilient
    - Retrofitting existing assets to make them more resilient
    - Better incorporating resilience into asset management plans
    - Increasing maintenance, to the extent maintenance is an eligible expense
    - Increasing redundancy to the transportation system
    - Relocating assets to avoid damage
    - Developing operational activities that support response and recovery
- Consider support for managed relocation, as this adaptation strategy is often considered for routes in rural areas and would affect underserved communities.
- Congress should avoid new plans, programs, and analysis processes that increase cost and burden to state DOTs, and a segmented definition of resilience that focuses solely on climate change, extreme weather events, or assets rather than an all-hazards approach which includes eligibility for projects or programs that achieve varying types of resilience benefits, including agency and asset performance.

"Fix It Right" and Performance Management

The federal transportation performance management framework requires state DOTs to report on and establish targets for certain surface transportation performance measures including safety, asset condition, and system performance. In addition, state DOTs are required to develop plans that focus on

more detailed aspects including the federally-required transportation asset management plan which focuses primarily on the condition of certain roadway and bridge assets within a state. Finally, states and MPOs must integrate all of this into a performance-based planning and programming process that results in performance-based long-range plans and transportation improvement plans based on consideration of performance targets.

The federal transportation performance management framework is relatively new having been started in CY 2018. The first four-year reporting cycle will be complete at the end of CY 2021—at which point all state DOTs, MPOs, and transit agencies will have experienced a full reporting cycle with much to learn. Even prior to the end of this first full reporting cycle, the evidence is clear that state DOTs are focused on maintaining current asset conditions as best they can, limiting expansion to very strategic locations that are necessary for safety and operational considerations, and that the federal transportation performance management framework is working in the way it was intended.

First, all states must meet minimum condition levels established by Congress for bridges (no more than 10 percent deck area of NHS bridges in poor condition) and USDOT for interstate pavement condition (no more than 5 percent of interstate lane-miles in poor condition). To date, over 90 percent of state DOTs have met both minimum condition requirements. For the greater extent of the surface transportation system, in 2018, the most recent year for which data is currently available, the condition of state-owned and operated pavements and bridges are in the following condition:

- 97 percent of the interstate pavements in good or fair condition;
- 89 percent of all NHS road miles in good or fair condition; and
- 95 percent of NHS bridges in good or fair condition.

Second, state DOTs have been prioritizing the management of existing assets rather than building new capacity. Data from the FHWA Highway Statistics Series shows that between 2008 and 2018:

- Interstate lane-miles increased by 3.7 percent (1,728 new lane-miles)
- Federal-aid lane-miles increased by 3.4 percent (33,700 lane-miles), and
- NHS bridge lane-miles increased by 2.4 percent (14,700).

Third, the federal transportation performance management framework is working in more ways than simply establishing and achieving performance targets for a limited set of national-level performance measures. All states have developed and submitted transportation asset management plans that are consistent in nature, the first time this has ever happened. All states are now reporting on the same set of national-level performance measures that are collected in a consistent manner and calculated using the same data. All of this information and data are readily available and transparent for anyone to look at and analyze. In fact, if you ask most state DOTs, the process alone has been beneficial to start both internal and external conversations and collaborations.

Recommendations:

- *Ensure and support an asset management approach*
  Because nearly 25 percent of all surface transportation funding for roads and bridge comes from federal sources, it is logical that Congress would want to focus on assets of national interest and connect the vast geography of the United States. Establishing minimum condition levels for these

critical national-level asset classes that state DOTs must achieve will likely remain most important to Congress. However, we cannot go down the path of focusing on a *worst-first* approach to maintaining our assets as that could focus limited resources on programs, treatments, and projects that do not focus on the long-term condition of an asset being maintained at the least cost over its life cycle.

- *Managing the transportation system—and the assets it comprises—must remain a core function of the asset owner and operator*
  On average, 75 percent of current surface transportation funding comes directly from states and locals. State DOTs will often have to manage not only the federal system but the state system and partner with other agencies to manage the local system as well. Thus, state DOTs cannot simply apply the limited set of national measures to the entire system because many states will have additional policy goals and different priorities compared with the national goals. Because of this, state DOTs must be entrusted to use transportation performance management to determine how the whole of transportation funding investments (federal, state and local) are invested across the entirety of the transportation system to maximize the benefits be it outputs such as improving safety or the condition of assets, or longer-term societal outcomes focused on environmental sustainability, accessibility, and equity.
- *State DOTs must be able to set performance targets*
  Future legislation must recognize that the concept of performance management does not mean a state DOT must demonstrate that performance management can only show improving or maintained target achievement levels. The use of performance management can illustrate a) what type of performance level can be achieved given the resources available; or b) how much funding is needed to achieve a certain performance level. Targets must be driven by the data-driven analysis and not an arbitrary decision whereby regressive targets are not allowed. In many situations, without the necessary resources, state DOTs will be in the business of better managing the decline of asset condition.
- *Ensure that everyone understands the purpose of performance management which goes beyond targets and funding*
  Transportation performance management has many different aspects including:
    - Communication of the benefits from transportation investments
    - Establishing framework for the public to understand and recognize the relationship between funding and prioritization of investments based on consideration of performance needs
    - Creation of unifying focus for agency
    - Address legislative requirements

  Addressing legislative requirements (be it federal or state) are but one aspect. As can be seen with the current federal TPM legislation and regulation, it is also being used to better communicate the benefits of transportation, enabling agencies to have a unifying focus on managing current assets, and better linking funding to performance.
- *Penalties cannot be tied to funding*
  It is tempting to incentivize good performance and penalize poor performance. However, this may have the unintended consequence of manipulation of the system rather than a focus on implementing a robust performance management system. The notion of decreasing federal funding if a state DOT was not to achieve its targets is unlikely and undesirable. Setting up certain aspects of increased flexibility should a state implement a robust program could have merit. However, this concept cannot be set at arbitrary levels (top 10 percent get flexibility and the bottom 10 percent do not) but a more equitable approach, whereby if a state DOT attains certain goals and achieves certain targets, they get more flexibility, could be worthwhile.
- *Provide an open and inclusive dialog on the future of the performance management program*
  AASHTO has said that from the beginning of MAP-21 that this is the first step in long journey. There

are likely many aspects to the current federal transportation performance management program that need to be modified, updated, removed or added to. USDOT should provide an open and inclusive process to evaluate the current program and collaborate on future changes. This would be applicable to both the program in general as well as the identification and development of new performance measures to the extent desirable and permitted by statute.

- *Ensure all performance measures are practical, reasonable, and meaningful*
  There are currently 17 performance measures that state DOTs must report on. AASHTO realizes that these initial national performance measures will evolve and change over time. To that end, future performance measures cannot only add to the current 17 but reassess what currently has to be reported on; eliminate those that may not be relevant or useful; and identify new measures that are practical, reasonable, and meaningful.
- *Definition of "new capacity" is nuanced; prescriptive regulation of capacity investments has safety implications and should be avoided*
  Often, a new transportation project will be characterized as new capacity when it is really addressing a host of performance measures and targets such as safety, asset management, and operational improvements. And not all states and regions can focus solely on managing assets without looking at the need for focused and directed capacity needs. The definition of "new capacity" or "capacity expansion" should be limited to the classification of roadways that are adding significant new capacity.

Greenhouse Gas Reduction

State DOTs recognize the transportation industry is responsible for the largest share of GHG emissions in the United States. According to the Environmental Protection Agency, in 2019, 29 percent of GHG in the US were attributable to transportation activities. If a GHG performance measure is to be created, it should be developed collaboratively in combination with other metrics that support a lower GHG transportation system including, but not limited to, vehicle miles traveled, carbon intensity of fuels, vehicle fuel efficiency, carbon sequestration, and those involving low- or zero-emission modes travel. It should also be recognized that decarbonization and electrification of the transportation fleet will over time substantially reduce yields from the current motor fuel-tax based revenue model for surface transportation investment unless a new or alternative revenue model is adopted.

Recommendations:

- If standing up a new GHG performance management program, Congress should recognize the need to create a framework that provides meaningful impact on performance rather than a data analysis and reporting exercise. Also, the federal program should recognize the multiple entities impacting different aspects of transportation sector GHGs and the leadership and stewardship roles state DOTs fill. For instance, state DOTs are not the sole owner-operators of the transportation system and local governments also play a major role in transportation infrastructure operations and land use decisions.
- The success of a broader carbon reduction program tied to GHG performance measures needs to include federal government (CAFE standards) state DOTs (infrastructure owners), local DOTs (infrastructure owners), land use agencies such as municipalities (affecting demand).
- Any carbon reduction program or performance measure(s) should not be tied to funding as a means to either incentivize (carrot) or disincentive (stick) certain actions.

- Performance measure should cover the extent of the roadway system and not be limited to a particular type (e.g., interstates) or designation (e.g., NHS).
- Potential GHG measures could look to:
    - Carbon Dioxide (CO2) Emissions Generated by On-road Mobile Sources—Simple and straightforward measure that is easily calculated and understandable.
    - Per Capita CO2 Emissions Generated by On-road Mobile Sources—More complex measure that includes the interaction of population growth or decline for a geographic region.
- State DOT GHG reduction efforts should target urbanized areas where communities and neighborhoods are disproportionately impacted by air pollution and system users likely have more modal choices available, and also rural areas where there are fewer modal choices and trip distances tend to be longer.
- Congress should also consider the important roles of MPOs with GHG measures as the metropolitan planning and decision-making process may include transportation and land use connections and they directly include federal, state, regional, and local decision makers as part of the discussion.
- Congress should support states in continuing to partner with MPOs in planning, designing, constructing, and operating transportation projects in the MPO area that will address the GHG target for the urbanized area.

Broadband Deployment

AASHTO agrees with the Administration that broadband internet is the new electricity—it is necessary for Americans to do their jobs, to participate equally in school learning, health care, and to stay connected. When done safely, AASHTO strongly supports the highest and best uses of the highway rights-of-way which is a critical transportation resource owned and operated by state DOTs, including for broadband deployment.

Recommendations:

- To support broadband deployment in highway rights-of-way, federal legislation should recognize current best practices being undertaken by state DOTs—and avoid a one-size-fits-all approach.
- Specifically, the federal government should not eliminate the responsibility of technology companies to provide broadband services, and should recognize the appropriate role of state DOTs related to the deployment and maintenance of broadband infrastructure.
- In addition, the federal government should provide greater clarity related to the types of projects included in a "Dig Once" policy and ensure that the universe of covered projects is appropriately defined.
- Any federal Dig Once policies created should not conflict with current state laws and federal regulations related to use of the highway right-of-way.
- A new federal initiative should not create an unfunded mandate on state DOTs related to broadband deployment and maintenance.
- Federal funding eligibility should be clarified for transportation and infrastructure projects that have a broadband component, including fiber, conduit, duct banks and associated handholes, junction boxes, backhaul equipment, and any other technology that provides broadband connectivity in the context of the Federal-aid Highway Program.

Electric Vehicle Charging Infrastructure

Electric vehicles (EVs) and charging equipment have developed rapidly over the past decade. Today, EVs come in many shapes and sizes, from sidewalk delivery bots and e-scooters to electric ferries and airplanes. AASHTO supports the national goal of increasing the share of electric vehicles, which currently stands at two percent of the total motor vehicle fleet in the US.

Within each state, the lead role for EV adoption can vary from the state DOT to the state energy or environmental office, department of natural resources, or air quality board. State DOTs are also examining the direct impact of EV adoptions to their agencies including:

- Loss of revenue from fuel tax as EV share of the nation's vehicle fleet increases.
- Transitioning public bus and service fleets, as well as state government fleets, to EVs and installing charging equipment at state DOT properties.
- Upfront costs and procurement rules, which can be a barrier for states in transitioning to zero-emission vehicles.
- Initiating or expanding programs to support state or department GHG reduction goals.
- Ramping up staff expertise in new areas, such as high voltage electrical engineering, vehicle and charger maintenance and operations, and electricity pricing, to coordinate better with utilities and other stakeholders.

The Biden Administration's call for a national network of 500,000 EV chargers within the decade (currently about 40,000 exist with 100,000 outlets) is anticipated to come through grants and incentives to state and local governments and the private sector. The structure of such grants and incentives will determine state and local governments' decision to apply for and utilize them.

<u>Recommendations:</u>

- State DOTs should be provided flexibility to allow commercial activities in the highway rights-of-way, along with the flexibility to determine its level of involvement in EV charging infrastructure ownership, financing, operations, and maintenance. DC fast charging is the best fit for rest areas and states need to be allowed to charge fees to recoup costs if rest areas are to become viable options for EV charging.
- A major roll-out of EV charging infrastructure based on discretionary grants may not effectively ensure a strategic and system-wide deployment. However, if a discretionary grant program is created, the federal program should establish a programmatic application process to streamline evaluation and grant award. This will also speed up the grant award timeline and minimize application preparation and reporting costs.
- After a certain timeframe (e.g., two years from date of grant availability), unexpended budget authority from all discretionary grant programs should be pooled and converted into NHPP apportionments to all states.
- Equity is also a major concern regarding charging infrastructure placement as well as the cost of vehicles. Any proposed grants/incentives should include requirements to address equity of charging placement and access, and priority should be to place public charging infrastructure in places where it currently does not exist or where people do not have garages/the ability to charge at home (for example, places in urban areas with on-street parking as part of balanced curb management and access for all users). In addition, Disadvantaged Business Enterprises (DBEs) and communities should

be provided a level playing field to participate in electric vehicle charging infrastructure contracting and procurement opportunities.

Bridge Program

State DOTs are implementing a transportation asset management (TAM) approach which is a strategic and systematic process of operating, maintaining, upgrading, and expanding physical assets effectively throughout their life cycle. TAM focuses on business and engineering practices for resource allocation and utilization, with the objective of better decision-making based upon quality information and well-defined objectives. Ultimately, TAM is designed to maximize lifecycle value which may mean that certain assets, or bridges, remain in poor condition to ensure higher priority assets do not degrade from good to fair or fair to poor.

State DOTs are also concerned about prioritizing funding for certain asset classes and not enabling states to look at the management of the transportation network from a systematic perspective. Delineating certain dollars only for certain assets like bridges—separate from pavement or other assets, for example—does not enable a state DOT to optimize limited funding across all asset classes.

Recommendations:

- If a separate bridge program is desired, the core formula program with existing transportation asset management program should serve as the foundation. The focus should be on improving the management of bridges in general, knowing that simply implementing a transportation asset management approach does not mean conditions will improve without the needed resources being included as well.
- AASHTO also recognizes that it is difficult to pay for major bridge projects even with larger formula apportionments. For such projects, the Nationally Significant Freight and Highway Projects discretionary grant program could be refashioned as a multimodal "megaprojects" funding program similar to FTA Capital Investment Grants for New Starts with:
    - A minimum funding threshold
    - Support for single state or multistate projects
    - Eligibilities including reconstruction, rehabilitation, and new capacity, for all modes of publicly-owned surface transportation assets
- If a program focused on bridges not considered as "megaprojects" is desired, Congress needs to identify a clear definition of small bridges (e.g., project cost, deck area). In addition, funding should be distributed via formula for bridges both on and off of the Federal-aid Highways outside of the Interstate Highway System.
- Local bridges and culverts, having a span of 20 feet or less (i.e., those without a federal bridge number for reporting, condition data, plans, etc.), often need to be replaced with something much larger due to hydraulic and resiliency requirements. Funding opportunities should be considered for these assets as part of the federal bridge program.

State-Local Partnership

The partnership between state and local governments remains the cornerstone of translating federal policy into tangible transportation improvements in each state and metropolitan area. In delivering the Federal-aid program, its complexities are often not compatible with smaller infrastructure improvement projects administered by local governments.

Frequently, local governments and municipalities find it challenging to expend Federal-aid funds as efficiently or effectively as needed on qualified locally-owned roads because of the time and expense needed to meet requirements. To address the administrative burden placed on smaller projects using Federal-aid funds, several states have instituted "fund swap" programs in which DOTs provide state funding to local entities who wish to turn back their Federal funds. Sometimes, in programs referred to as "swap" programs, funds are not actually swapped but there is careful planning regarding the use of federal and state funds. It is important to note that by participating in federal funds swap programs, states do not reduce the overall amount of federal dollars subject to Davis-Bacon requirements.

Recommendations:

- States and their local partners should continue to be provided the flexibility to administer the Federal-aid program in ways that improve efficiency and reduce the project development timeline.
- Based on LTAP and TTAP, the federal program can further encourage best practices on technical assistance for local and tribal governments.
    - State DOT project managers can provide expertise and guidance as needed to help speed project delivery and ensure compliance with federal requirements, including guidance for environmental reviews and right-of-way acquisition.
    - State DOTs can also support local entities while minimizing oversight costs. Specific functions that state DOTs typically provide are tracking fund usage and providing monthly updates on current balances, and all obligation administration for MPOs under the FHWA Financial Management Information System (FMIS).
- The federal government should not place any restrictions on the establishment of federal funds swap programs. Local governments have universally benefited from and support the ability to use state funds in lieu of federal funds to deliver local projects.
- The federal program should look to provide greater flexibility for obligation timing. Frequently, MPOs accumulate suballocated funds for more than one year in order to fund a larger project than yearly suballocations would allow. To help ensure obligation limitation is available in the year that the local government project is programmed, continue allowing states to adjust obligations on state projects within the multiyear program so that locally-sponsored Federal-aid projects have increased flexibility to obligate funds on projects when projects are ready to proceed.

Buy America

State DOTs strongly support the policy goals of Buy America, which strengthen domestic industries that support investment in and improvements to our nation's transportation infrastructure. To fully realize the benefits of Buy America, a common-sense application of the provisions in current law and regulation is needed, rather than increasing its scope without regard for implementation ramifications.

The implementation of Buy America as it currently stands is leading to increased costs for projects due to product cost and delays in sourcing materials. However, the greater concern is the simple availability of materials. Various parts of the country are currently experiencing availability and supply chain issues with items such as structural steel, guardrail, wire mesh, epoxy products, lumber, and rubber. The addition of construction materials to the Buy America requirements increases the number of products that will contribute to project delays, as the supply of many construction materials is currently sourced through international markets, including petroleum-based products (such as PVC conduit and asphalt binder), electronic components, geotextiles (engineering fabrics), cement, aggregates, glass beads for reflective markings, and niche products such as components of movable bridges.

A stepwise approach to the implementation of current requirements within Buy America—as well as any proposed expansion—is needed to ensure that supply issues are not exacerbated. Currently, domestic manufacturing is unable to supply the materials necessary to ensure availability and timely delivery, resulting in project delays and increased costs for limited materials. Research on domestic suppliers and supply chains is needed prior to any expansion of Buy America, and a practical approach to granting waivers must be established as American markets are ramped up to meet demand.

Recommendations:

- Given its potentially adverse impact on the economy especially as it recovers from the pandemic, Congress and USDOT should clarify and simplify the waiver process to ensure timely consideration and consistent application of the law across the country to reduce costs and delays to transportation projects.
- Congress should clarify and focus the coverage of Buy America under current law to ensure its success, rather than expand its scope.
- Implement an exemption from Buy America for utility companies that are required to relocate their facilities as part of a transportation project.
- Implement an exemption from Buy America for research-related equipment and materials for transportation research projects.
- 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.