

AMERICAN ASSOCIATION
OF STATE HIGHWAY AND
TRANSPORTATION OFFICIALS

AASHTO

Surface Transportation Policy Recommendations for Reauthorization of the FAST Act

APPROVED BY THE AASHTO TRANSPORTATION POLICY FORUM
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American Association of State Highway and Transportation
Officials

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Introduction

The Fixing America's Surface Transportation (FAST) Act enacted in December 2015 represented the first comprehensive, long-term surface transportation legislation since 2005's SAFETEA-LU. The FAST Act continues to fulfill the Constitutional directive that investment in transportation is a core federal responsibility.

Yet at the same time, the FAST Act provides only a one-time and near-term—though absolutely necessary—reprieve when it comes to federal surface transportation funding. By not enacting a long-term funding source, the Highway Trust Fund (HTF) continues to remain at a crossroads. The HTF has provided stable, reliable, and substantial highway and transit funding for decades since its inception in 1956, but this is no longer the case. Since 2008, the HTF has been sustained through a series of General Fund transfers now amounting to \$140 billion.

Without a solution to this crisis, AASHTO estimates that states will see about a 40 percent drop in highway funding from FY 2020 to 2021. In the past, such similar shortfall situations have led to the possibility of a reduction in federal reimbursements to states on existing obligations, leading to serious cash flow problems for states and resulting in project delays. More alarmingly, due to a steeper projected shortfall in the Mass Transit Account, new federal transit obligations are expected to be zeroed out between FY 2021 and FY 2023. Simply put, this is a devastating scenario that we must do all we can to avoid. Beyond maintaining program levels, there has been broad consensus among states that additional federal funding and investment is warranted.

Beyond funding stability, after decades of adding layers of regulatory requirements on state transportation agencies, various aspects of the Moving Ahead for Progress in the 21st Century Act (MAP-21) and the FAST Act provided needed policy reforms. In the next surface transportation reauthorization, AASHTO recognizes that we need to continue the momentum of MAP-21 and the FAST Act by making further efficiency gains on project delivery and providing increased flexibility for states. Every state DOT's priority is ensuring safety and serving as responsible stewards of taxpayer resources and both human and natural environments, all the while improving both mobility and accessibility for all residents and businesses.

This package of AASHTO's FAST Act reauthorization was developed by the Transportation Policy Forum (TPF), which is charged with discussing and recommending policies related to legislation, regulation, and other policy matters to the AASHTO Board of Directors, including the Association's recommended positions on reauthorization of key transportation legislation and on ongoing topical issues of interest to state DOTs.

Format

In the form of policy resolutions, AASHTO's FAST Act reauthorization package is composed of:

- Vision statement
- Core policy principles
- Policies in key areas. For more issue background and details, Issue Numbers as noted in parentheses in this package refer to matching issue identifiers in the accompanying AASHTO policy white paper.

Policy Resolution PR-X-19

Title: AASHTO's Vision for Reauthorization of the FAST Act

WHEREAS, America is poised to dramatically improve the national transportation network in ways that will improve the safety, mobility, health, and economic well-being of all Americans, and;

WHEREAS, from the very beginning of our developing nation, we have valued investment in our surface transportation infrastructure, starting with rivers, harbors, and post roads, and later taking major leaps through canals, the transcontinental railroad, and the Interstate Highway System, and;

WHEREAS, a safe, well-functioning, and resilient system is the foundation of a strong economy and quality of life benefits such as access to employment, education, recreational, and health services opportunities, and;

WHEREAS, ensuring safety of Americans using our surface transportation system remains the foremost priority for each state department of transportation (state DOT), as 36,750 lives lost on our roadways and work zones in 2018—including pedestrians and users of motorized and non-motorized vehicles—is wholly and totally unacceptable, and;

WHEREAS, every action that state DOTs take serves to provide the highest possible quality of life for all Americans by improving access, public health, and both built and natural environments, and;

WHEREAS, state DOTs strive to deliver the most effective and efficient surface transportation system that strengthens and grows the economy by increasing productivity, enhancing jobs and labor market accessibility, opening new markets for businesses, and optimizing supply chain efficiency for freight movement, and;

WHEREAS, it is the interconnected national transportation system—with states as a principal owner and operator of a multimodal surface transportation infrastructure—that has enabled the United States to become the most vibrant and powerful nation in history, and;

NOW, THEREFORE BE IT RESOLVED, AASHTO's vision for policy recommendations are founded upon transportation serving as the key enabler for a higher purpose: to provide the safest system possible, highest possible quality of life, and most robust economic opportunities for every American, and further be it;

RESOLVED, a well-funded, multiyear reauthorization of the Fixing America's Surface Transportation (FAST) Act on time by September 30, 2020, is absolutely necessary to actualize AASHTO's reauthorization goals that serve Americans, and further be it;

RESOLVED, given the strong bipartisan support from the American public for robust infrastructure investment, it is time for the President and Congress to take bold action on this consensus national priority.

Policy Resolution PR-X-19

Title: AASHTO's Core Policy Principles for Reauthorization of the FAST Act

AASHTO supports the following core policy principles for reauthorization of highway, transit, and other surface transportation programs:

1. Ensure timely reauthorization of a long-term federal surface transportation bill

- Funding stability provided by federal transportation programs is absolutely crucial to meet states' capital investment needs, which take multiple years to plan and construct.
- A long-term transportation bill is needed so that there is no authorization gap upon FAST Act expiration in September 2020. Short-term program extensions cause unnecessary program disruptions and delays safety and mobility benefits to states and communities.

2. Enact a long-term, sustainable revenue solution for the Highway Trust Fund

- Ensuring Highway Trust Fund solvency in supporting a six-year federal surface transportation bill that simply maintains current FAST Act funding levels, will require approximately \$100 billion in additional revenues for the Highway Trust Fund.
- To achieve a state of good repair, USDOT's 2015 Conditions and Performance Report estimates highway and bridge needs at \$836 billion and transit needs at \$90 billion, which would require significant additional investment.
- Federal funding solutions can draw upon the experience of 31 states that have successfully enacted transportation revenue packages since 2012.

3. Increase and prioritize formula-based federal funding provided to states

- The current federal highway program optimally balances national goals with state and local decision making.
- Formula-based transportation funding reflects the successful federal-state partnership by ensuring the flexibility necessary for each state to best meet its unique investment needs.
- Congress should increase the formula-based program's share of the Federal-aid Highway Program from 92 percent currently in the FAST Act.

4. Increase flexibility, reduce program burdens, and improve project delivery

- Increase programmatic and funding flexibility to plan, design, construct and operate the surface transportation system.
- Reduce regulatory and programmatic burdens associated with federal programs that are not part of the project approval process.
- Modernize Clean Water Act, Clean Air Act, and Endangered Species Act processes to improve transportation and environmental outcomes and reduce delays.
- To streamline and improve project delivery, states should be provided with opportunities to assume more federal responsibilities and the associated accountability.

5. Support and ensure state DOTs' ability to harness innovation and technology

- Innovative approaches and technologies should be embraced to achieve a safer and more resilient, efficient and secure surface transportation system.
- State DOTs, as infrastructure owners and operators, need the 5.9 GHz spectrum for transportation safety and connected vehicle deployment purposes.
- Preserve state and local government authority to regulate operational safety of autonomous vehicles.
- Preserve state and local government authority to responsibly manage data collected from transportation technologies.

Policy Resolution PR-X-19

Title: AASHTO FAST Act Reauthorization Policy Theme 1: Promote Safety

WHEREAS, ensuring safety of the public we serve remains the foremost priority for every state department of transportation, and;

WHEREAS, 36,750 lives lost on our roadways and work zones in 2018—including pedestrians and users of motorized and non-motorized vehicles— though a reduction from 2017, is wholly and totally unacceptable, and;

WHEREAS, AASHTO strongly supports the Toward Zero Deaths national vision of a highway system free of fatalities through a sustained and accelerated decline in transportation-related deaths and injuries, and;

WHEREAS, to make the most significant reductions in traffic fatalities and serious injuries, states combine efforts from multiple safety disciplines to implement the most effective countermeasures in the most efficient manner, and;

WHEREAS, this involves combining resources—such as funding and data—from various agencies with a role in traffic safety, including infrastructure, law enforcement, public education, emergency medical services, and public health, and;

WHEREAS, reauthorization of the FAST Act should allow for sharing and combining resources to allow states the necessary flexibility to address their safety challenges, and;

NOW, THEREFORE BE IT RESOLVED, allow states the flexibility to use a portion of the Highway Safety Improvement Program (HSIP) funds to invest in safety programs such as behavioral efforts, public awareness, education, enforcement, research, improving system resilience, and pilot or experimental projects, and also allow HSIP funds to be used for experimental, temporary installations such as testing the viability of protected active transportation lanes (Issue SF-1), and further be it;

RESOLVED, safely deploy cooperative and automated transportation technologies by sharing non-proprietary data generated by automobile manufacturers, technology developers, research organizations, and public agencies with the public and decision makers; increasing efforts to deploy existing proven automation technologies, and; revising outdated safety laws, regulations, and guidance when the data unequivocally demonstrates a technology’s ability to provide an equivalent or higher level of safety, while recognizing that 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 CAV-2), and further be it;

RESOLVED, provide states with a reasonable opportunity to take corrective action to bring themselves back in compliance with federal impaired driving requirements prior to the imposition of financial penalties to the state highway program (Issue SF-2), and further be it;

RESOLVED, clarify Section 209 of the Passenger Rail Investment and Improvement Act of 2008 to exempt state and political subdivisions of states who sponsor but do not operate intercity passenger rail services from being classified as railroads or railroad carriers and thus subject to System Safety Program regulations intended for railroad operators (Issue RT-2), and further be it;

RESOLVED, ensure that the Federal Highway Administration continues to oversee the review and approval process for crash testing roadside safety hardware for use on the nation's road and highway system (Issue PEG-5), and further be it;

RESOLVED, codify the current Public Transportation Agency Safety Plan exemption for Federal Transit Administration Section 5310 and 5311 providers and provide funding to support implementation for systems receiving funding from the Section 5307 Urbanized Area Formula Program and have 100 or fewer vehicles in peak revenue service (Issue PT-3).

Policy Resolution PR-X-19

Title: AASHTO FAST Act Reauthorization Policy Theme 2: Ensure Robust Long-term, Sustainable Funding Solution

WHEREAS, Highway Trust Fund (HTF) revenues derived primarily from federal motor fuel taxes have been the core source of funding to support federal investments in surface transportation since 1956, and;

WHEREAS, the purchasing power of the HTF has been reduced by over fifty percent since 1993 mainly due to flat, per-gallon motor fuel excise taxes that have not been adjusted for 26 years, and;

WHEREAS, since 2008, the HTF has been sustained through a series of General Fund transfers now totaling \$140 billion, and;

WHEREAS, according to the Congressional Budget Office, in order to simply maintain current HTF spending levels adjusted for inflation after the Fixing America's Surface Transportation (FAST) Act, Congress will need to identify approximately \$100 billion in additional revenues to support a six-year bill through 2026, and;

WHEREAS, despite substantial funding challenges facing transportation, the investment backlog for transportation infrastructure continues to increase, reaching \$836 billion for highways and bridges and \$90 billion for transit according to the US Department of Transportation, and;

WHEREAS, the lack of stable, predictable funding from the HTF makes it nearly impossible for state DOTs to plan large projects that need a reliable flow of funding over multiple years, and;

WHEREAS, because states count on prompt payment from the federal government to be able to manage cash flow and pay contractors for work they have already completed, disruptions and delays in HTF reimbursements jeopardize the ability of states to pay contractors in a timely manner, and;

WHEREAS, because contractors rely on prompt payment from the state to be able to pay their employees and suppliers, disruptions to federal funding have the potential to send unwelcome shockwaves throughout the transportation community and other industries indirectly supported by infrastructure investment—including countless number of small businesses that perform work on our nation's highways, as they often don't have the flexibility to wait for additional days or weeks for payment on the work they have already completed on a project, and;

WHEREAS, reauthorization of the FAST Act must ensure robust, long-term, and sustainable funding to meet national needs for economic competitiveness, connectivity, safety, and security, and;

NOW, THEREFORE BE IT RESOLVED, that a permanent solution for the HTF shortfall must be the foundation of FAST Act reauthorization in order to prevent significant planning and construction disruptions to highway and transit projects, to provide stable cash reimbursements to states for costs already incurred, and to ensure and enhance the national benefits of the federal surface transportation program including jobs, economic competitiveness, safety, personal mobility, efficient movement of goods, and improved quality of life, and further be it;

RESOLVED, that any potential HTF revenue solution must include these core factors: derived from system use and the need for connectivity, dedicated to highway and public transit transportation improvements, and sufficient to support permanent growth in federal transportation investment, and further be it;

RESOLVED, that it is time for policy makers to advance tangible solutions to the HTF's structural revenue deficit and that potential mechanisms such as motor fuel tax increase and indexation, per-barrel oil fee, freight user charges, or a mileage-based user fee, while not all inclusive, would provide a foundation to preserve and strengthen the federal role in supporting a national surface transportation network, and further be it;

RESOLVED, Congress is urged to increase federal surface transportation funding significantly above the current FAST Act funding levels to address transportation infrastructure needs and to sustain national and regional connectivity (Issue FF-1), and further be it;

RESOLVED, Congress must provide sustainable, certain, long-term funding to the HTF to support multiyear legislation and continue to fund the development and implementation of revenue alternatives to motor fuel taxes (Issue FF-2), and further be it;

RESOLVED, rescissions of highway contract authority greatly impede the flexibility of state DOT programs' federal dollars and Congress is urged to avoid using rescissions of highway contract authority as budgetary offsets (Issue FF-4), and further be it;

RESOLVED, proportional to highways, federal funding for public transportation and rail transportation should be strengthened and expanded through increases in formula-based program funding from the Mass Transit Account in the HTF plus commensurate increases for General Fund transit programs, all of which support both rural and urban areas to enhance regional and national economic competitiveness and community vitality (Issue PT-1), and further be it;

RESOLVED, Congress should retain the current multi-tiered federal transportation research structure by maintaining the State Planning and Research program set-aside at two percent of core highway programs—of which 25 percent is dedicated to research, development, and technology transfer activities—and by maintaining the current level of effort for federal Research, Technology, and Education (RT&E) programs accounting for inflation (Issue RI-1).

Policy Resolution PR-X-19

Title: AASHTO FAST Act Reauthorization Policy Theme 3: Maintain Current Program Structure

WHEREAS, the heart and soul of the Federal-aid Highway Program are the formula dollars supporting state and local investment decisions, and;

WHEREAS, this nation-building program, starting with the Federal-aid Road Act of 1916, established the foundation of a *federally-assisted State* highway program, and has been perfectly suited to a growing and geographically diverse nation like ours, and;

WHEREAS, the stable federal investment enabled by the Highway Trust Fund has allowed states and their local partners to fund state- and locally-critical projects that at the same time serve the interests of the nation as a whole, and;

WHEREAS, Congress recognized in the Moving Ahead for Progress in the 21st Century (MAP-21) legislation the need to consolidate a complex array of federal highway programs into a smaller number of broader programs, with the eligibilities generally continuing under such programs, and;

WHEREAS, this revised program structure has provided state DOTs with greater flexibility to deliver projects more efficiently, and it better supports data-driven investment decisions to meet performance targets established in MAP-21, and;

WHEREAS, the formula-based program framework built the Interstate Highway System and the National Highway System, the backbone of our national network of roads and bridges that drives our national economy, and;

WHEREAS, maintaining this core program structure remains the optimal approach for the next surface transportation legislation to serve all corners of our country by improving mobility and quality of life in urban, suburban, and rural areas, and;

NOW, THEREFORE BE IT RESOLVED, Congress is urged to focus on maximizing federal formula-based dollars provided directly to states through the existing core formula programs by increasing the 92 percent share of formula dollars relative to all highway program funding under the FAST Act, rather than looking at approaches that can divert the federal government's focus and role in the surface transportation program (Issue FF-3), and further be it;

RESOLVED, Congress should continue to prioritize formula funding over discretionary grant programs as state and local governments already have existing investment plans, programs, and processes in place and can put new federal formula funds to work promptly and effectively (Issue FF-3), and further be it;

RESOLVED, Congress must maintain the current balance of funding among highway, highway safety, and transit programs from the Highway Trust Fund and continue General Fund support for rail programs (Issue FF-8), and further be it;

RESOLVED, Congress should clarify that performance measures and the achievement of federal performance management targets are not related to apportioning or allocating federal funds among the states, and also clarify that federal performance management requirements were established to provide a source to communicate with decision makers and the public on the condition and investment needs of the national highway system as a whole (Issue PM-1), and further be it;

RESOLVED, Congress should reauthorize the Consolidated Rail Infrastructure and Safety Improvements Grant Program, State of Good Repair Grant Program, and the Restoration and Enhancement Grant Program above FAST Act levels, and support cross-border investment (Issue RT-1), and further be it;

RESOLVED, Congress should maintain the existing balance of authority among state DOTs, Metropolitan Planning Organizations, and rural planning organizations (Issue PL-1), and further be it;

RESOLVED, using current annually appropriated funding levels as a baseline for formula and discretionary funds, Congress should provide increased Highway Trust Fund formula and discretionary grants for buses and bus facilities, supplemented by General Funds where possible (Issue PT-2), and further be it;

RESOLVED, Congress should maintain the current federal-state matching ratio requirements for projects and further explore innovative match strategies such as the sale or exchange of toll credits (Issue FF-6), and further be it;

RESOLVED, while most projects require federal support in the form of direct funding, Congress should continue to support the federal financing tools currently provided and encourage new innovative financing approaches (Issue FF-11), and further be it;

RESOLVED, Congress should preserve the current maximum federal funding match ratios for public transit programs to ensure support for rural and urban communities, individuals with disabilities and seniors, and our nation's transit infrastructure (Issue PT-4), and further be it;

RESOLVED, Congress should reauthorize funds for the Amtrak National Network and the Amtrak Northeast Corridor in order to continue efficient and effective passenger rail mobility (Issue RT-3), and further be it;

RESOLVED, no new additional federal performance measures, associated performance management requirements, or other new complexities should be established or authorized (Issue PM-4).

Policy Resolution PR-X-19

Title: AASHTO FAST Act Reauthorization Policy Theme 4: Improve Flexibility

WHEREAS, state DOTs are appreciative of the flexibility correctly provided in the federal program that supports the ability of states to select the right mix of projects to meet the unique investment needs of their own states, and;

WHEREAS, there is opportunity to make every federal dollar go even further by increasing flexibility because each federal program is still constrained by specific eligibility and transferability limitations, and;

WHEREAS, increased program-level flexibility would enable states to target federal funding more effectively and efficiently to meet their needs, whether for preservation, capacity, safety, or other unmet needs, and;

WHEREAS, for example, the suballocated portion of the Surface Transportation Block Grant Program (STBGP) remains underspent, with the latest available data showing 80 percent of total unobligated STBGP funds nationwide belonging in the suballocated portion even though it comprises 54 percent of total STBGP dollars provided in FY 2019, rising to 55 percent in FY 2020, and;

NOW, THEREFORE BE IT RESOLVED, Congress should further increase flexibility within the STBGP by expanding the state DOTs' share of funding (which will be reduced to 45 percent by FY 2020 under the FAST Act) which can be used in any area within a state, with this flexibility including each state's ability to direct more of its own STBGP funding to their local partners—over and above suballocated STBGP funds—if they so wish (Issue FF-8), and further be it;

RESOLVED, Congress should allow for increased flexibility within and transferability between highway and transit program categories; increase the transferability of the current core formula highway programs; enable transferability from federal program categories with unobligated balances to allow for use of those funds; focus federal funding increases in the most flexible formula funding categories, and; authorize a pilot program that allows a limited number of states the option to treat all federal funds they receive during the pilot program years as having been apportioned to that state under the most flexible of the existing federal funding categories, where the purpose of the pilot program is to demonstrate how states produce results toward state goals and needs using a flexible needs-based and outcome-oriented project prioritization and programming process (Issue FF-5), and further be it;

RESOLVED, Congress should provide increased tolling flexibility to states to maximize revenue-raising opportunities in light of federal funding challenges (Issue FF-7), and further be it;

RESOLVED, Congress should streamline federal requirements for transportation projects related to declared emergencies under the Emergency Relief (ER) program by conducting a comprehensive assessment to identify where improvements can be made to allow advance planning for ER project implementation to include a range of project strategies, efficiently administer program funds, and return the system to functional operation as quickly as possible and provide opportunities to incorporate resilience strategies into project design; allow ER projects to include actions that increase the resilience of the replacement project to future hazards; allow ER funds to be used for actions outside of the right-of-way and/or for other strategies that improve the resilience of the damaged asset and/or facility; allow more flexibility with contract requirements and National Environmental Policy Act (NEPA) review as part of the ER program as, for example, emergency projects should receive expedited clearances or waivers for environmental, right-of-way, and railroad certifications in order to recover from a disruption, and; allow state DOTs to change order all federal requirements into a previously-let, state-funded project that did not contain the federal provisions, as requiring a new letting for emergency projects often delays emergency repairs and expecting states to include federal requirements in state-funded projects is unrealistic (Issue PEG-4), and further be it;

RESOLVED, in regards to administration of the Transportation Alternatives (TA) set-aside within STBGP, 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; have the flexibility to receive TA funding and administer TA projects on behalf of a local agency at their request, and; be allowed to use TA funds for non-infrastructure programs that focus on preservation, safety, public education, enforcement, and/or public outreach. In addition, Congress should call for 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 overall transportation funding changes, and; allow transportation agencies to choose the level of federal share for set-aside programs (Issue FF-9), and further be it;

RESOLVED, Congress should expand eligibility of the National Highway Freight Program to include all of the National Highway Freight Network (NHFN); eliminate the two-percent rule so states can spend funds on any NHFN route to include Critical Urban Freight Corridors and Critical Rural Freight Corridors; expand the Primary Highway Freight System (PHFS) to include all Interstate System roadways regardless of how much freight funding a state receives, as freight program eligibility should include all Interstates by default; remove restrictions on state authority to add mileage to the PHFS, NHFN and National Multimodal Freight Network (NMFN), including but not limited to mileage caps on critical urban and critical rural corridors, and; add eligibility to use funds on any portion of a state's NMFN as defined in a state's freight plan (Issue FR-1), and further be it;

RESOLVED, Congress should reform the formula-based National Highway Freight Program to more clearly include eligibility for investment in integrated freight technology, management and operations strategies and solutions, freight safety programs (including for emergency responders), and research supporting future investments, and; remove the ten percent multimodal cap to provide flexibility for states when investing in multimodal freight projects identified in the state's freight investment plan and to invest more in multimodal projects if appropriate for that state, and; eligibility should include multistate proposals and projects for regions and corridors to improve national freight intermodal connectivity (Issue FR-2), and further be it;

RESOLVED, reform the Nationally Significant Highway and Freight Projects discretionary program (also known as INFRA) by removing or increasing 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 NMFN as defined in a state's freight plan, and; minimize annual changes to INFRA criteria for consistency in grant applications and award (Issue FR-3), and further be it;

RESOLVED, increase the flexibility in the use of the Congestion Mitigation and Air Quality Improvement (CMAQ) program funds by: increasing flexibility and decreasing restrictions on the use of CMAQ funds for Intelligent Transportation System and transit operations as long as such investments continue to demonstrate net air quality benefits; requiring obligation of CMAQ funds in PM 2.5 nonattainment and maintenance areas only when it is determined that the nonattainment issue results from transportation activities, and; making explicit that technology deployments such as Connected and Automated Vehicles (CAV) are eligible for funding under CMAQ (Issue PL-4), and further be it;

RESOLVED, allow preventive maintenance projects to be conducted outside of the federal transportation planning or allow for a general statement of preventive maintenance work in the Statewide Transportation Improvement Program to enable needed flexibility in applying the most appropriate treatments at the best time and in the best locations, and; allow states to assume the authority to determine that a preventive maintenance project meets the applicable criteria for federal reimbursement (Issue PEG-9), and further be it;

RESOLVED, amend Section 6(f) of the Land and Water Conservation Fund Act to allow flexibility for a public agency acquiring Section 6(f)-protected parkland to compensate for those impacts through enhancements to the existing park or other enhancements acceptable to the parkland owner, which would allow broader flexibility as to the method used to compensate for impacts to parkland while requiring approval from the National Park Service (Issue PEP-8).

Policy Resolution PR-X-19

Title: AASHTO FAST Act Reauthorization Policy Theme 5: Reduce Program Burdens

WHEREAS, states are responsible for administering the Federal-aid Highway Program established under the foundation of a national program that is a *federally-assisted State* program according to Title 23 Section 145, and;

WHEREAS, regulations are intended to provide consistency and direction in the administration of the Federal-aid Highway Program, and;

WHEREAS, current federal surface transportation programs remain subject to significant requirements and processes—established over time—that can exert unnecessary burdens on transportation agencies, and;

WHEREAS, many regulations have been promulgated without direct ties to federal statute, and these incremental changes, when taken together, amount to significant increases in time, cost, and complexity to the delivery of transportation projects across the country, and;

WHEREAS, there is a well-recognized need to reduce and simplify regulations and other requirements with the goal of reducing cost, increasing efficiency, and expediting the process to deliver needed transportation projects to the American public; and

WHEREAS, the numerous planning, programming, performance-management, asset-management, and investment documents in the areas of highways, transit, freight, rail, safety, and others have a wide variety of durations, update cycles, and requirements that have become overly complex, duplicative, and confusing to the state DOTs, leading to reduced efficiency and efficacy in the decision making process, and;

WHEREAS, performance management regulations have created a data-intensive environment where state DOTs are required to collect, store, analyze, and report significantly more data and information than ever before, and the cost associated with these data collection efforts are significantly greater than estimated by the Federal Highway Administration (FHWA), and;

WHEREAS, fiscal constraint requirements imposed by the FHWA impede the ability of state DOTs to develop and deliver transportation projects by requiring that National Environmental Policy Act (NEPA) approvals only be made on projects coming from a fiscally constrained Statewide Transportation Improvement Program (STIP) or metropolitan Transportation Improvement Program (TIP), even though it is impractical to estimate cost and include a project in a fiscally-constrained STIP or TIP until the NEPA process is complete, as the NEPA process helps define the project, and;

WHEREAS, the timing of the fiscal constraint determination can be especially challenging for large public-private partnership (P3) projects and other innovative-finance projects, where funding and financing plans are not (and cannot be) resolved until after the NEPA process is complete; and

WHEREAS, state DOTs are committed to implementing a transportation performance management program but are concerned the established minimum condition levels for certain asset classes could force a state DOT to implement a “worst first” approach to managing their assets, and;

WHEREAS, the inconsistent and impractical application of the Buy America Act to surface transportation projects across the country has led to delays, increased costs, and increased administrative burdens on both state governments and private entities such as utility companies, and;

WHEREAS, there are numerous federal approvals required in the standard Stewardship and Oversight Agreement that are not called for or allowable by statute, such as a state’s standard specifications, pavement design policy, value engineering policy and procedures, liquidated damage rates, and quality assurance program, and;

WHEREAS, the FAST Act legislated exemptions for overweight emergency vehicles and overweight heavy-duty tow and recovery vehicles on our highway system that will waste money on unnecessary highway signs, increase the standard legal loading on these bridges resulting in reduced longevity, and confuse the traveling public, when the existing system of states’ permit authority could designate appropriate routes, reduce costs for state and local governments, protect bridges, and continue to facilitate prompt movement of emergency and tow vehicles when necessary, and;

WHEREAS, formal adoption by the US Departments of Justice and Transportation of the Public Rights-of-Way Accessibility Guidelines (PROWAG) is needed to address accessibility for people with disabilities within the unique conditions and constraints of the public right-of-way, as without formal adoption, states are being forced through litigation to implement suboptimal accessibility solutions that were adopted previously for vertical construction, known as the ADA Accessibility Guidelines (ADAAG), and;

WHEREAS, the current annual schedule for federal compliance reviews of states’ bridge and tunnel inspection programs does not allow sufficient time to implement corrective actions before the next year’s audit period commences, resulting in redundant reviews and a lack of opportunity for meaningful improvement before the next review takes place, and;

WHEREAS, federal rules in 23 CFR 750.707(d)(3) and (d)(5) create expensive, time-consuming processes for relocating or providing just compensation for removal of “nonconforming” billboards, when a minor modification to the regulation could significantly reduce time and cost without adverse impacts to the scenic environment, and;

WHEREAS, the antiquated Bonus Act of 1958 is incongruent with the Highway Beautification Act (HBA) in many aspects, causes problems for state DOTs in their regulation and control of outdoor advertising signs along the Interstate, and costs federal dollars to relocate or compensate for loss along sections of roadway that are no longer state highways, and;

WHEREAS, the courts are requiring states to waste precious transportation dollars demonstrating conformity to air quality standards that have been superseded by more stringent updates to the National Ambient Air Quality Standards (NAAQS), and;

NOW, THEREFORE BE IT RESOLVED, AASHTO recommends continuing the progress made in the Moving Ahead for Progress in the 21st Century (MAP-21) Act and the FAST Act to reduce the layers of regulatory burden that have accumulated onto the state DOTs, with the goal of increasing the efficiency and effectiveness of every transportation dollar, and further be it;

RESOLVED, Congress should amend 42 USC 7506 to require conformity by transportation agencies only to the most recent standard for a given pollutant in the National Ambient Air Quality Standards (NAAQS) when a new standard is established (Issue PEP-4), and further be it;

RESOLVED, Congress should rescind the FAST Act provisions concerning emergency vehicles and heavy-duty tow vehicles (23 USC 127(m) and (r)) or at least allow states to accommodate these vehicles, through permitting and other methods (Issue PEG-6), and further be it;

RESOLVED, Congress should direct USDOT to implement a more practical application of the Buy America Act for transportation projects, including: reinstating a reasonable waiver process; implementing an exemption for utility companies that are required to relocate their facilities as part of a transportation project; implementing an exemption for research-related equipment and materials for transportation research projects; and ensuring timely consideration and consistent application of the law across the country to ensure that transportation projects are progressing without significant delays (Issue PEG-1), and further be it;

RESOLVED, states should be authorized to approve modifications to various state policies and procedures listed in the standard Stewardship and Oversight Agreement without preapproval by FHWA, subject to FHWA's ongoing oversight of the state's compliance with federal requirements, and reviews of these changes should be conducted no more frequently than every two years (Issue PEG-3), and further be it;

RESOLVED, Congress should also direct FHWA to: identify and implement ways to reduce the burden associated with the development of performance measures by providing additional financial resources to state DOTs beyond simple funding eligibility or flexibility; reduce the scope of data collection, analysis, and management required by state DOTs; and ensure that state DOTs are only held accountable for those assets within their control (Issue PM-2), and further be it;

RESOLVED, in order to better address the financial process difficulties caused by federal funding uncertainty in the fiscal constraint and financial planning provisions related to planning, programming, asset-, and performance-management, the description of when funding can be "reasonably expected to be available" should be defined broadly, and fiscal constraint and other financial requirements in planning and programming should be imposed for no longer than the STIP timeframe (Issue FF-10), and further be it;

RESOLVED, to allow adequate time to implement and evaluate current performance-based planning regulations included in 23 CFR § 450, Subpart B, Congress should make no changes or additions in the current and upcoming reauthorization cycles (Issue PL-3), and further be it;

RESOLVED, Congress should direct the Secretary of USDOT to review the effect that the minimum condition levels for both condition of interstate pavements and NHS bridges have had on the ability of state DOTs to implement an asset management approach, and further be it;

RESOLVED, Congress should authorize the adoption in regulation of the Public Rights of Way Accessibility Guidelines to ensure that transportation projects most appropriately accommodate people with disabilities (Issue PEG-7), and further be it;

RESOLVED, Congress should direct FHWA and the Federal Transit Administration (FTA) to update their joint environmental and planning regulations (23 CFR Part 771 and Part 450), and direct the US Environmental Protection Agency (EPA) to make corresponding changes to its transportation conformity regulations which would provide state DOTs with the flexibility to complete the NEPA process with approval conditioned on making an air quality conformity and fiscal constraint determination before proceeding to construction (Issue PL-2), and further be it;

RESOLVED, Congress should direct FHWA to remove fiscal constraint regulatory requirements that are not compelled by statute and reduce the burden associated with them through such methods as applying them to fewer decision points and shortening applicable time frames (Issue PL-2), and further be it;

RESOLVED, Congress should direct FHWA to place federally-required financial plans on a consistent four-year cycle with the STIP; to make consistent the duration, update cycle, and content of numerous planning documents required of state DOTs, and; to eliminate redundancy among and allow consolidation of these and other planning documents to reduce administrative burdens on the state DOTs (Issue PL-5), and further be it;

RESOLVED, Congress should establish a new pilot program that would require bus manufacturers to directly provide a single certification to the Federal Transit Administration demonstrating compliance with Buy America and Altoona Test requirements (Issue PEG-1), and further be it;

RESOLVED, FHWA's annual compliance reviews of states' bridge and tunnel inspection programs be extended to two years or more to allow time for the meaningful implementation of improvements and corrections recommended in the previous cycle (Issue PEG-8), and further be it;

RESOLVED, federal laws and regulations be amended to allow for the relocation of "nonconforming" billboards when impacted by a highway project to reduce the cost and time associated with compensating the permit holder or locating a new conforming location (Issue PEG-13), and further be it;

RESOLVED, Congress should amend applicable laws related to the antiquated outdoor advertising control regulations of the Bonus Act of 1958, which causes problems for state DOTs in their regulation and control of outdoor advertising signs along the Interstate, effectively allowing states to exit the program without penalty (Issue PEG-14).

Policy Resolution PR-X-19

Title: AASHTO FAST Act Reauthorization Policy Theme 6: Improve Project Delivery

WHEREAS, modernizing processes and procedures related to the development and delivery of transportation projects would greatly improve and expedite project delivery and reduce costs, all the while protecting and enhancing built and natural environments and;

WHEREAS, notable examples of modernizing project delivery include assignment of federal authorities to states ready and equipped to handle such responsibilities, allowing states appropriate exemptions from process requirements and/or creating categorical determinations for routine projects with minor impacts improves project delivery, and programmatic approaches that group multiple similar projects, and;

WHEREAS, the Federal Transit Administration (FTA) approval of routine and recurring activities in a grant, such as the replacement of buses, are often held up while FTA works through issues pertaining to new initiatives, and;

WHEREAS, right-of-way procurement and utility relocations are consistently one of the top reasons for delay in transportation project delivery and additional flexibilities would provide cost savings and time reductions, and;

WHEREAS, restrictions and delays imposed on transportation agencies by railroad owners, either intentionally or unintentionally, significantly affect the timely delivery of transportation projects, and;

WHEREAS, requiring air quality conformity determinations be made every time a Metropolitan Planning Organization (MPO) updates or amends its long-range transportation plan or Transportation Improvement Program (TIP)—even those that are likely to have minimal impact on air quality—is a source of unnecessary project delay, and;

WHEREAS, requiring participating agency concurrence in developing project schedules and any changes that shorten the schedule greatly delays project delivery, and;

WHEREAS, the lack of recovery plans or outdated recovery plans for species listed as threatened or endangered creates numerous challenges for project sponsors in addressing these species as there is no guidance regarding species recovery goals or acceptable mitigation tools, and;

WHEREAS, permitting requirements under Section 404 of the Clean Water Act for the discharge of dredged or fill material into “waters of the United States” can be a significant burden on transportation project development, especially for minor maintenance and construction activities, and;

NOW, THEREFORE BE IT RESOLVED, Congress should authorize any federal agency to apply a categorical exclusion (CE) that has been adopted by any other federal agency (Issue PEP-1), and further be it;

RESOLVED, USDOT should establish a set process and reasonable timeline—including templates or model agreements—for acquiring right-of-way from federal agencies to promote fairness and to speed up project delivery (Issue PEG-2), and further be it;

RESOLVED, Congress should direct the US Environmental Protection Agency (EPA) to amend the transportation conformity regulations to allow USDOT, in consultation with EPA, to make programmatic conformity determinations that can be relied upon as the basis for demonstrating conformity for individual plans, programs, and projects (Issue PEP-3), and further be it;

RESOLVED, the right-of-way acquisition process should be streamlined by: allowing state procurement procedures to be used on federal-aid projects; allowing protective purchases with preliminary engineering funding; increasing the waiver valuation threshold, or removing the threshold; removing the 4(f) restriction on the Early Acquisition process; allowing states the option to use the “short form” for appraisals; and allowing states to voluntarily assume some or all of the Federal Highway Administration’s (FHWA) responsibilities for approval of right-of-way acquisitions (Issue PEG-2), and further be it;

RESOLVED, Congress should eliminate the requirement to obtain “concurrence” from other agencies in NEPA project schedules, and clarify that posting on the dashboard satisfies the requirement to maintain and update the project schedule under Section 139 (Issue PEP-5), and further be it;

RESOLVED, FHWA should be directed to amend its National Environmental Policy Act (NEPA) regulations to allow utility relocations to begin prior to NEPA completion, with appropriate limitations to ensure the integrity of the NEPA process, and allow federal funds to be used for such relocation (Issue PEG-10), and further be it;

RESOLVED, Congress should require establishment of consistent requirements, commitments, and time frames across all public and private railroad owners to facilitate transportation work within and across railroad rights of way, and provide USDOT the authority to enforce those provisions with the railroads (Issue PEG-11), and further be it;

RESOLVED, Congress should require USDOT to establish template or model agreements for standard activities conducted by the state DOTs in railroad rights-of-way (and vice versa), and provide guidance on the establishment of agreements for special or more complex activities (Issue PEG-11), and further be it;

RESOLVED, Congress should direct the Government Accountability Office to study the federal transit grant approval process for routine and recurring procurements and provide recommendations to Congress and USDOT on effective strategies for streamlining existing processes and practices, and USDOT must work with the stakeholder community to take action and implement the study’s recommendations (Issue PT-6), and further be it;

RESOLVED, Congress should allow delegation of the US Army Corps of Engineers (Corps) permitting responsibility to a state DOT for a subset of projects (Issue PEP-6), and further be it;

RESOLVED, Congress should require the US Fish and Wildlife Services (USFWS) to establish activities-based exemptions from the Endangered Species Act (ESA), which would avoid the need for Section 7 consultation and incidental-take permits for specific types of routine activities, such as road maintenance projects (Issue PEP-7), and further be it;

RESOLVED, Congress should Require USFWS and the National Marine Fisheries Service to issue interim guidance at the time of listing of a threatened or endangered species, and then to issue a full recovery plan within 12 months of listing (Issue PEP-9), and further be it;

RESOLVED, Congress should create an alternative process allowing approval of Section 404 permit for a surface transportation project through programmatic agreement that ensures no-net-loss at watershed level, in lieu of making a Least Environmentally Damaging Practicable Alternative (LEDPA) determination at the project level (Issue PEP-10), and further be it;

RESOLVED, Congress should direct USFWS to amend the Section 7 regulations to allow a “designated non-federal representative” to act on behalf of the federal action agency during both informal and formal consultation (Issue PEP-11), and further be it;

RESOLVED, Congress should expand exemptions from Clean Water Act Section 404 permitting for routine maintenance projects with minor impacts and streamline the use of Nationwide Permits for projects that remain subject to Section 404 (Issue PEP-12).

Policy Resolution PR-X-19

Title: AASHTO FAST Act Reauthorization Policy Theme 7: Harness Innovation and Technology

WHEREAS, dramatic change is taking place with the merger of technology between the car, truck, and other vehicles—and with physical transportation infrastructure—we will enable unprecedented improvements to safety and mobility through the emergence of Cooperative Automated Transportation (CAT), and;

WHEREAS, CAT has been defined as all modes of transportation working together to improve safety, mobility, and operations efficiency through interdependent vehicle and systems automation and information exchange, and;

WHEREAS, Infrastructure Owners and Operators (IOOs) including state DOTs play a fundamental role in advancing, operating, and maintaining the physical and digital infrastructure necessary to support CAT solutions, and;

WHEREAS, development and deployment of CAT, and also unmanned aerial systems (UAV) or drones, are great examples of transformational technological developments currently taking place at an exponential pace, and;

WHEREAS, state DOTs must remain at the forefront of developing and implementing the smartest and most technologically advanced ways to improve safety, mobility, and efficiency in our transportation system, and;

NOW, THEREFORE BE IT RESOLVED, Congress must continue our nation’s commitment to improving transportation safety by reserving the 5.9 GHz wireless spectrum for this critical purpose, as connected vehicles (CV) utilizing Vehicle-to-Everything (V2X) communication in this “safety spectrum” will save lives by creating a seamless, cooperative environment that significantly improves the safety of our transportation system; and by requiring the federal government to lead the development of a universal, seamless approach to security management and CV communication through standardization and appropriate research and technology demonstration programs which will enable states to better understand when and how to make appropriate investment decisions (Issue CAV-1), and further be it;

RESOLVED, Congress should not allow the Federal Communications Commission to issue a one-size-fits-all federal preemption including uniform “shot clocks” and application fee caps in order to provide wireless and wireline broadband access—including 5G small cell nodes—in transportation rights-of-way and other assets owned and operated by state and local governments, but rather encourage state DOTs and technology companies to consult with one another on the best methods to extend broadband deployment especially to underserved areas, and; given the unique nature of highway projects in each state, state DOTs should be provided full flexibility to explore innovative partnerships with technology companies as part of broadband deployment (Issue OP-1), and further be it;

RESOLVED, Congress should establish a pilot program—modeled on FHWA’s Special Experimental Project (SEP)-15 and SEP-16—that would allow USDOT modal administrations and federal environmental agencies to waive or otherwise modify their own requirements to develop innovative practices to streamline project delivery and achieve positive environmental outcomes, which would include appropriate safeguards—including interagency consultation and public notice and involvement—to ensure adherence to federal environmental laws, regulations, and policies (Issue PEP-2), and further be it;

RESOLVED, states should be provided with broader control when utilizing existing federal funding sources on transportation system management and operations (TSMO) and related activities given the rapid expansion and use of TSMO strategies and technologies in a constrained budgetary environment (Issue OP-2), and further be it;

RESOLVED, Congress should expand flexibilities for transportation agencies to use drones in broader applications and with fewer restrictions when reasonable safety measures can be accommodated to help realize the full potential of this continually evolving technology (Issue PEG-12), and further be it;

RESOLVED, Congress should allow cooperative automated transportation infrastructure needs to be eligible for funding beyond traditional eligibilities focused on capital expenses by including maintenance activities necessary for proper and safe operation of CAT; provide further flexibility in the Federal-aid procurement rules as they relate to both the purchase, installation, and maintenance of CAT technologies by a state DOT, and; provide additional federal funding for building new testbeds and maintaining existing ones to allow industry and technology developers to test their hardware and applications on such testbeds, which will enable infrastructure owners and technology developers to better understand each other’s requirements, resulting in better standards and better infrastructure (Issue CAV-3), and further be it;

RESOLVED, Congress should provide funding for, expand research in, and facilitate the deployment of CAT technology to enhance mobility alternatives for individuals that may be unable to use or are not served by traditional public transportation services (Issue CAV-4).

Policy Resolution PR-X-19

Title: AASHTO FAST Act Reauthorization Policy Theme 8: Support Research and Development

WHEREAS, to build, maintain, and expand its vast multimodal transportation system, our nation has long committed to and relied on the fruits of research—including innovations in planning, materials, construction methods, system operation, organizational effectiveness, and many other areas, and;

WHEREAS, innovation and research allow state agencies to efficiently and effectively deliver a safe, reliable, and sustainable transportation system while continuously improving facilities and services, and;

WHEREAS, while the federal government’s support and funding for transportation research has been steady over many decades, by any measure—across industries or across countries—our nation invests very modest resources in transportation research and innovation, and;

WHEREAS, a substantial return on investment from smarter, better, and longer-lasting transportation can easily be documented with factors such as more durable infrastructure and improved operations, and;

WHEREAS, additional benefits extend far beyond those that are easily quantified, including lives saved, an environmentally responsible transportation system, and improved quality of life for our citizens whose daily lives depend on the efficient movement of people and goods; and

NOW, THEREFORE BE IT RESOLVED, Congress should invest \$1 million for scoping a third Strategic Transportation Research Program, which would better equip state DOTs to adapt and fully integrate technology and innovation into the transportation network that they own and operate (Issue RI-2), and further be it;

RESOLVED, Congress should reauthorize the Transit Cooperative Research Program which promotes best practices and facilitate the deployment of new technologies, thereby enhancing increases in operational efficiency (Issue PT-5), and further be it;

RESOLVED, Congress should reestablish the National Cooperative Freight Research Program to assist states in their delivery of freight transportation projects with funding beyond the amount prescribed for the federally managed Research, Technology, and Education programs and State Planning and Research-funded programs (Issue FR-4).