

AMERICAN ASSOCIATION  
OF STATE HIGHWAY AND  
TRANSPORTATION OFFICIALS

**AASHTO**

TESTIMONY OF

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REGARDING

**Putting the Bipartisan Infrastructure Law to Work:  
The State and Local Perspectives**

BEFORE THE

**Committee on Environment and Public Works of the  
United States Senate**

ON

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## INTRODUCTION

Chairman Carper, Ranking Member Capito, and Members of the Committee, thank you for the opportunity to appear today to discuss building the foundation for our nation's future and delivering major economic benefits through implementation of the Infrastructure Investment and Jobs Act (IIJA).

My name is Jim Tymon, and I serve as Executive Director for the American Association of State Highway and Transportation Officials (AASHTO). Today, I am accompanying Secretary Majeski and Secretary Wriston to testify on behalf of our members—the state departments of transportation (state DOTs) of all 50 states, Washington, DC, and Puerto Rico.

I would first like to extend AASHTO's utmost gratitude to you and your colleagues on the Environment and Public Works Committee (Committee) for your dedicated and tireless leadership on development and enactment of the IIJA. Stable and long-term policy and funding provided through a robust multiyear federal surface transportation bill remains crucial to the work of every single state DOT to meet its goal of improving safety, quality of life, and economic opportunities for everyone. We have especially appreciated the chance to work with your Committee for many years on highway reauthorization—such as the America's Transportation Infrastructure Act and the Surface Transportation Reauthorization Act—that ultimately laid the foundation for the IIJA.

I would also like to share the overarching policy vision for AASHTO, as laid out in our [2021-2026 Strategic Plan](#). The Plan calls for providing improved quality of life through leadership in transportation—and a key goal is "Safety, Mobility, and Access for Everyone" which we look to achieve through the following objectives:

- Advance a safe, multimodal transportation system
- Connect community, economy, land use and the environment
- Advance equity and social justice
- Improve asset performance
- Strengthen resiliency
- Align transportation interests across partners and regions

Delivery is paramount to the success of the IIJA, and under Congressional oversight, AASHTO and the state DOTs have worked closely with our federal executive branch partners including the US Department of Transportation (USDOT) in providing coordination, collaboration, and direct assistance to ensure that the benefits promised by the new bill will be fully realized in the coming years. As key infrastructure owners and operators who will play a leading role in implementing this legislation, we have conveyed to USDOT that:

- AASHTO membership’s input is critical not just at the outset of IIJA implementation, but for the full five-year duration of the legislation, including in development of regulations, guidance, and policies, and;
- Where a range of possible legislative interpretations exist, USDOT should provide flexibility that allows each state to best meet its unique needs.




With that in mind, as part of your efforts to oversee timely and effective implementation of the IIJA and to help inform policy for future legislation, I would like to discuss the following areas with you this morning:



- Robust investment in multimodal transportation and innovation under the IIJA
- Improving safety for all road users
- Build America, Buy America
- Impact of inflation on deliver of the IIJA
- Supporting deployment of electric vehicle charging infrastructure
- Developing the workforce of today and tomorrow
- Administration of discretionary grant programs

**ROBUST INVESTMENT IN MULTIMODAL TRANSPORTATION AND INNOVATION UNDER THE IIJA**

During the lead-up to reauthorization of surface transportation programs, AASHTO’s Board of Directors adopted five core policy principles. The state DOT community could not be more thankful to see key policy and funding features reflected in the IIJA that reflects our priorities conveyed to your Committee and Congress in October 2019.

TABLE 1: AASHTO’S CORE POLICY PRINCIPLES FOR SURFACE TRANSPORTATION REAUTHORIZATION

AASHTO CORE POLICY PRINCIPLES	INFRASTRUCTURE INVESTMENT AND JOBS ACT KEY FEATURES
1. Ensure timely reauthorization of a long-term federal surface transportation bill	 Provides five years of federal funding and policy stability from FY 2022 to 2026
2. Enact a long-term, sustainable revenue solution for the Highway Trust Fund	 No revenue solution, though provides a \$118 billion General Fund transfer to HTF; Continues support of state user fee programs and creates a national user fee pilot program
3. Increase and prioritize formula-based federal funding provided to states	 90 percent of total HTF highway funding is provided to states via core formula programs, including two new programs: Carbon Reduction and PROTECT (for resiliency)

<p>4. Increase flexibility, reduce program burdens, and improve project delivery</p>	 <p>Improves the environment review process by touching up on NEPA, Section 4(f), and stewardship and oversight agreement, among others</p>
<p>5. Support and ensure state DOTs’ ability to harness innovation and technology</p>	 <p>Provides substantial funding for EV infrastructure deployment and increased research and development funding</p>

State DOTs are grateful to Congress for recognizing the need to revamp and modernize the entire physical stock in the United States by investing in all infrastructure asset classes. We’re also thankful that the IIJA, at its core, includes a five-year reauthorization of federal highway, highway safety, transit, and rail programs for fiscal years 2022 through 2026.

The IIJA represents a historic investment in all forms of infrastructure, with \$567 billion in Highway Trust Fund and General Fund resources provided to the US Department of Transportation. The IIJA has also provided a unique \$113.3 billion in advance General Fund appropriations for various forms of infrastructure—including transportation—above and beyond authorization and funding of federal trust fund programs. We appreciate these advance appropriations that provide guaranteed funding between FY 2022 and FY 2026.

State DOTs are proud of the progress they have been able to make in recent decades to invest in all modes of the transportation system as part of the statewide network. For example:

- In 2019, state DOTs invested \$20.8 billion in public transportation, compared to the federal investment of \$11.3 billion. Formula transit funding in the IIJA for Rural Areas (Section 5311) and Enhanced Mobility of Seniors and Individuals with Disabilities (Section 5310) remain crucial for statewide mobility and accessibility.
- With regard to rail service, twenty state agencies provided \$750 million in funding support to Amtrak, providing service to 48 percent—or almost half—of Amtrak riders system-wide in 2019. States will also play a major role in passenger and freight rail investments supported in the IIJA, by applying for new rail discretionary grant programs.
- For civil aviation, the FAA reported that in 2020, states helped to support 4 million jobs and generated \$850 billion in total economic activity. The increased funding from the IIJA will allow state DOTs to continue to make these kinds of critical investments.

State DOTs are also on the cutting edge of technology and innovation. Through AASHTO’s collaborative “inter-committee” working groups, state DOTs are directly addressing some of the most important emerging issues in the transportation sector—such as connected and automated vehicles, electric vehicles, unmanned aerial systems, and shared mobility.

## IMPROVING SAFETY FOR ALL ROAD USERS

For far too long, we have seen a tragic loss of life on our nation's roads and streets, and the recent significant increases in traffic fatalities are even more disheartening. Every state DOT in the nation and the AASHTO community stand with this Committee in your unwavering commitment to do everything in our power to make our roads safer.

Thanks to your Committee's leadership, the IIJA provides an increase in funding and flexibility for the Highway Safety Improvement Program (HSIP) that will allow states to expand their efforts to identify and implement improvements to our surface transportation infrastructure that will counteract the daily tragedies occurring on our roads. In addition, the increases in funding for infrastructure safety activities along with new programs, such as the Safe Streets and Roads for All Grant Program, provide more opportunities for us to work together to address traffic safety throughout the planning, design, operation, and maintenance of all public roads. We appreciate that the IIJA clearly calls out the principles of the Safe System Approach: that no death or serious injury is acceptable; people make mistakes and are vulnerable; we all share responsibility in preventing serious crashes; we need to be proactive in our efforts; and we need to have redundant safety strategies in place.

But even with the good news of increased safety resources under the IIJA, the horrific estimates from the National Highway Traffic Safety Administration (NHTSA) of the increase in the nation's traffic fatalities in 2021 confirm a grim truth that so many of us are aware of on both a professional and personal level: 42,915 people died in traffic crashes last year nationwide or 118 deaths each and every day. And 2022 looks to be even worse: NHTSA estimates that 9,560 people died in motor vehicle traffic crashes in the first quarter of 2022, which is an increase of about seven percent compared to the same quarter in 2021. This would be the highest number of first-quarter fatalities in 20 years.

AASHTO is fully dedicated to combating traffic fatalities and serious injuries. We know that as infrastructure owners and operators, state DOTs have a leading role in many of the activities that will get us to zero deaths. Each state recognizes that their road networks are not perfect, and there are thousands of dedicated public and private professionals working every day to provide the best transportation system possible. We know that supporting the critical work of our partners—public, private, and non-profit—will advance our collective efforts. We all have different capabilities, jurisdictions, and responsibilities so we need to rely on partners to work in areas where we cannot. Working together, we can comprehensively combat traffic fatalities and serious injuries on our nation's roadways.

AASHTO and its members will continue to promote known infrastructure-based opportunities—and to identify new ones—to address the variety of factors contributing to crashes and roadway safety needs of all road users. AASHTO's councils and committees continuously identify best practices to share among the states so that we can continue to spread good ideas around the country.

**BUILD AMERICA, BUY AMERICA**

AASHTO and the state DOTs strongly support the expansion of America’s manufacturing capacity, promoting domestic jobs, and encouraging economic growth. At the same time, we firmly believe there must be a deliberative process for implementing the Build America, Buy America (BABA) Act that ensures timely and successful delivery of critical infrastructure projects funded through the IIJA.

We appreciate that USDOT listened to concerns regarding potential delays and anticipated disruptions to project delivery by providing a temporary, 180-day waiver for the new category of construction materials in May 2022. However, states continue to have significant concerns regarding the readiness of industry for this transition and the tremendous potential near-term negative impact on the delivery of needed transportation projects in communities around the country. Additional preparatory work—including robust market research into the availability of American-made goods in the broad cross-section of materials covered by the new requirements—needs to be undertaken at the federal level to ensure a less disruptive transition to American-made products, as well as to provide time for adjustments in the sourcing of listed construction materials.

We believe the most feasible option for achieving these collective objectives is extending the public interest waiver for construction materials past November 10, and until such time as the White House Made in America Office and USDOT can identify and further define specific construction materials subject to the new requirements. We also believe this extension should come with a collaborative action plan for federal agencies to work with recipient agencies and industry contractors, suppliers, and manufacturers to identify construction materials lacking in short-term domestically-manufactured availability, with the recognition that these latter parties have already undertaken efforts in this area. Subsequently, federal policymakers should consider all options for implementing the new construction materials requirement, including further extension of the full waiver, use of waivers targeting specific materials, grandfathering of projects already designed with unique elements, and exemption of materials already purchased and stockpiled for future projects.

AASHTO is also significantly concerned about the potential impact of Buy America on the desired rapid deployment of EV infrastructure, which is discussed in more detail below in the section on electric vehicle charging infrastructure deployment.

When deployed as per the IIJA and executive order, the new waiver decision process should be subject to a defined time limit to help plan project development, and should also be fully transparent and reflective of a meaningful effort to evaluate each waiver on its merits. We also believe certain “commercially-available off-the-shelf” (COTS) components should be considered for exemption from Buy America under a *de minimis* waiver or otherwise. And to the extent that utilities are compensated for relocating their infrastructure within or outside a federal-aid project’s right-of-way, related materials should not be subject to Buy America. Lastly, after

appropriate review as required by the IIJA, the Federal Highway Administration (FHWA) should look to maintain its longstanding nationwide waiver on manufactured products.

AASHTO believes that it is in the public interest that critical infrastructure projects intended to improve mobility and access for the American public not be disrupted while transportation agencies continue to make good-faith efforts to integrate the new BABA requirements into their program and project delivery processes.

## IMPACT OF INFLATION ON DELIVERY OF THE IIJA

As the nation's economy continues to reel from the effects of the COVID-19 pandemic, state DOTs and their partners continue to grapple with an unprecedented construction material supply chain crisis that has significantly driven up material and bid costs. According to a recent analysis of government economic data by the Associated General Contractors of America, the prices of materials and services used in new, nonresidential construction leaped nearly 17 percent in June 2022 from year-ago levels. This figure indicates the lead times for procurement and delivery of many construction materials have dramatically increased over the last year, leading to mass unpredictability in the availability and price of some of these materials. Material cost increases have ranged from 15 percent to a doubling or tripling in some markets during this time. From manufactured steel, plastic and steel piping, and paint to glass beads, lumber, and much more, every region of the country is facing extreme difficulty in procuring any number of crucial project materials.

As a result, crucial infrastructure projects across the country run the risk of delay. State DOTs and the construction industry are unable to foresee disruptive world events, spiking energy prices, and soaring inflation. The impacts of this have been especially devastating to small and disadvantaged business enterprises (DBE) that lack the resources to absorb these unexpected costs. While the transportation industry has deep experience in managing risk, the events and circumstances of the last two years have led to such unique unpredictability in the supply chain and market that contracting firms of all sizes are at greater risk of business failure now than in recent history.

While most agree that the challenges our industry is facing with supply chain constraints and inflation appear to be leveling off to a limited degree, the transportation industry will continue to face challenges. Likewise, it is important to identify solutions to ensure the success of the IIJA and to be ready for future supply chain or inflationary challenges.

We believe that there is opportunity for USDOT to provide informational resources and greater recognition of existing flexibilities to address supply chain constraints and inflation—including such approaches as early material procurement and payment, the use of escalation clauses and the indexing of commodities, and contracting provisions to assist smaller and DBE contractors. USDOT should also encourage additional opportunities to utilize innovative solutions through

such avenues as Special Experimental Project Number 14 (SEP-14) related to alternative contracting and SEP-15 for innovative financing, allowing states to explore and expand successful practices.

Legislatively, we fully support Congressional efforts led by Senators Padilla and Cornyn (S 3011/HR 5735) to include in any stopgap spending package to clarify that state and local governments may use American Rescue Plan Act (ARPA) funds for transportation projects and relief of project-level cost increases. By passing S 3011/HR 5735, the ARPA funds can help mitigate state budget shortfalls and allow states and localities to address ongoing infrastructure needs that may have been sidelined during the pandemic. This legislation passed the Senate last October via a unanimous consent agreement, and the House companion bill has over 150 bipartisan co-sponsors. Supported by 28 national organizations, the legislation would not increase costs to the federal government or the deficit and does not mandate state or local governments change plans or priorities.

While inflation has reduced the expected purchasing power of IIJA, it must also be noted the legislation has enabled state DOTs and their partners to greatly blunt the impact of inflation and make necessary investments in transportation infrastructure.

## **SUPPORTING DEPLOYMENT OF ELECTRIC VEHICLE CHARGING INFRASTRUCTURE**

AASHTO and the state DOTs readily support the President's ambitious goal of building a new national network of 500,000 electric vehicle (EV) chargers by 2030, as funded in part through the IIJA. We will do our part to ensure that the National Electric Vehicle Infrastructure (NEVI) Formula Program sets up the EV infrastructure industry for long-term success in achieving important environmental outcomes as directed by Congress.

In recent months, state DOTs have played a critical leading role in advancing EV policy priorities you had articulated through the IIJA. We're particularly thrilled to report that all 50 states, the District of Columbia, and Puerto Rico submitted EV infrastructure deployment plans by the August 1, 2022, deadline, and most of the plans have been approved by FHWA.

AASHTO signed a memorandum of understanding in March 2022 with the National Association of State Energy Officials (NASEO) and USDOT-US Department of Energy Joint Office to support nationwide investment in EV charging station infrastructure. In line with that agreement, the Joint Office of Energy and Transportation issued \$1.5 million to AASHTO and NASEO in July 2022 to help coordinate EV infrastructure deployment at the state level. That funding will allow AASHTO and NASEO to update and expand the content on the EV Clearinghouse [website](#) created for state agencies, which contains a wealth of resources such as sample requests for proposals and contracts, EV infrastructure siting and assessment tools, and other resources.



In addition, the AASHTO-NASEO-Joint Office agreement will support:

- Development of peer exchanges and regional dialogues to build capacity, lift up best practices, and ensure coordination across a national EV charging network that also reflects local needs;
- Identification and provision of data, technical, and programmatic assistance needs to develop, implement, and refine state EV charging plans, and;
- Enhancement of communication between state and federal agencies to enable effective, coordinated and timely EV charging planning and implementation.

As the key partner to USDOT in the federally-supported, state-administered federal transportation program, the state DOTs, through AASHTO, also provide the following recommendations to Congress and the Administration on implementation of the NEVI Formula Program.

#### Ensure the NEVI Program Sets up the EV Infrastructure Industry for Long-Term Success

Long-term operation and maintenance of charging infrastructure should not be a state DOT responsibility, just as state DOTs do not operate or maintain gasoline or diesel fueling infrastructure today. Rather than state DOTs themselves, many of the NEVI Formula Program requirements will be passed on to third-party vendors or contractors.

We believe the proposed NEVI rule from USDOT would impose significant constraints and requirements (e.g., annual reports, quarterly reports, IT connectivity, and workforce requirements) on the private sector vendors and contractors who will implement the NEVI Program. As such, we have asked for more flexible and less burdensome requirements to make participation in the NEVI Program more attractive to the private sector (thus encouraging more competitive bids during the procurement process) and to make long-term stewardship of the charging infrastructure more financially viable for the private sector.

#### Extend the Buy America Manufactured Products Waiver for EV Infrastructure

AASHTO and the state DOTs strongly support the President's goal of promoting domestic jobs and encouraging economic growth by maximizing the use of American-made products and materials in federally-funded projects, while also successfully delivering a national network of 500,000 electric vehicle charging stations. And as noted earlier, AASHTO appreciates that USDOT has listened to concerns regarding potential delays and anticipated disruptions to project delivery related to the new Buy America requirements and has provided a temporary, 180-day waiver for the new category of construction materials.

However, states continue to have significant concerns regarding the readiness of industry for the transition to new Buy America requirements, as well as the anticipated reexamination of the current Buy America waiver for manufactured products. AASHTO anticipates tremendous near-term negative impacts on the delivery of needed transportation projects—including deployment of EV charging infrastructure—in communities around the country if new and expanded

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requirements are implemented too quickly. Additional work needs to be undertaken at the federal level—including robust market research into the availability of American-made materials and products—to ensure a successful transition to any new or revised Buy America requirements. Thus, AASHTO strongly recommends continuation of the public-interest waiver for manufactured products, especially as it relates to EV charging infrastructure, as this will help ensure a successful rollout of EV infrastructure in a timely manner across the country.

#### Give State DOTs Greater Flexibility to Meet Local Needs and Conditions

AASHTO supports FHWA's goal of establishing a national network of EV charging stations. To achieve this goal, state DOTs need flexibility to implement charging networks that suit local conditions, including local geography, electrical grid capacity, population density, average daily traffic, and anticipated demand for EV charging. We ask that the proposed regulations establish a process by which state DOTs can seek and receive specific exceptions to the requirements, in line with the Exception Template provided on the website of the Joint Office of Energy and Transportation, but with expanded exception options. For example, in very rural areas where it is unlikely that four vehicles will need to charge simultaneously, a state DOT might seek an exception that would allow power-sharing between charging ports; this would allow the ports to achieve 150 kW but would not require costly grid upgrades to equip the charging station to provide 600 kW.

AASHTO and the state DOTs look forward to partnering with USDOT and other key stakeholders under Congressional oversight on the implementation of EV infrastructure across our nation.

### **DEVELOPING THE WORKFORCE OF TODAY AND TOMORROW**

Strategic workforce management—the systematic approach used to predict, prepare for, and manage workforce needs—is an urgent and critical issue for all of AASHTO's members. State DOTs across the nation have increasingly expressed concerns about aligning the needs and priorities of the state DOT with those of its workforce in order to place the agency in the best position for ongoing success. As technology and innovation advance, and public expectations and demands for more nimble service delivery rise, agencies will need to reimagine their workforce. State DOT constituents are increasingly demanding transparency, accountability, increased personalized communication, and on-demand service delivery.

The new technologies associated with this work require different skillsets and competencies than those of traditional state DOT employees. Additionally, as the new generation entering the workforce seeks agility and innovation, and brings a service-delivery mindset, state DOTs need to adjust to the culture of the new workforce to recruit and retain these employees. Restructuring, increased diversity and inclusion, greater employee buy-in and collaboration, and organizational culture change may be required for state DOTs to succeed in the future.

Workforce talent management is experiencing increased workforce movement as well as talent shortages. As a large portion of the state DOT workforce is composed of baby boomers, their impending retirement could result in significant knowledge loss. These retirements will also result in employees being promoted more quickly and, therefore, entering new positions with less experience and skills. In addition, fewer people are entering the transportation industry as a career, and the new skillsets needed increase recruitment and retention challenges. Capturing and transferring operational knowledge through knowledge management strategies and succession plans are critical to train current employees. Many state DOTs already re-examine minimum qualifications, compensation, and job descriptions; use short-term or contract employees; and implement modern work arrangements such as flexible work schedules and/or telework.

State DOTs will need to increasingly use data science curation and analytics to support efficient decision-making. We also need effective information management systems and information managers to handle the multitude of documents, reports and data produced by the state DOT as well as the increased public expectations regarding access to information.

State DOTs are using innovative approaches to address workforce management issues. For example, five state DOTs are currently partnering with the Center for Employment Opportunities (CEO) to provide employment to formerly incarcerated individuals. CEO crews support the state DOTs with litter abatement, vegetation management and landscaping, bridge and structure maintenance, and snow removal. CEO's partnership with Caltrans began in 2011 and CEO now has nearly 30 crews across the state providing reliable, high-quality litter abatement along highways in eight counties. These crews provide immediate employment to over 2,000 of California's returning citizens. CEO's partnership with the Colorado Department of Transportation (CDOT) began in May 2017 to help address a labor shortage that prevented CDOT from keeping up with necessary bridge maintenance. CEO and CDOT now operate four crews around the Denver and Colorado Springs metro areas.

To assist the state DOTs with workforce management challenges, AASHTO has established a new Subcommittee on Transportation Workforce Management. The Subcommittee is intended to provide proven, effective strategies to navigate workforce management issues and become a community of practice for state DOTs on strategic workforce management. The subcommittee will also address activities that enable comprehensive and intentional strategic workforce management, such as assessing workforce and workplace diversity, equity, and inclusion, and assessing the capabilities and effectiveness of the current workforce and identifying competency gaps.

We believe investing in our infrastructure is ultimately an investment in our citizens.

## ADMINISTRATION OF DISCRETIONARY GRANT PROGRAMS

A critical part of the IJA is the discretionary programs, which have increased substantially in number and funding, and which support some of the most important Congressional priorities. We believe the efficient and effective delivery of these discretionary programs is critical to the successful delivery of the promises made to Americans by the President and Congress.

As discretionary grant programs continue to solicit applications, award dollars to projects, lead to execution of project agreements, and ultimately, construction, operation, and maintenance of projects, AASHTO offers the following recommendations for the IJA and the subsequent surface transportation reauthorizations:

- The institutional capacity and resources necessary for eligible recipients to successfully apply vary widely, presenting an equity issue for smaller recipients looking to compete for and access discretionary grant programs.
- The amount of time needed to launch new discretionary programs (structuring, releasing Notices of Proposed Rulemaking (NPRMs), reviewing comments, finalizing) continues to mean that money won't flow quickly.
- The unpredictability of obtaining a discretionary grant (from the roughly \$25 billion in grants available per year) makes it difficult for states and localities to forecast around the availability of these funds especially for their fiscally constrained plans and statewide/transportation improvement programs S/TIPs, especially since some awards can be extremely large.
- Participation by up to 60,000-plus eligible local entities in the competition process raises oversight and stewardship challenges and could dramatically slow down the review of applications. In addition, the institutional capacity of many local recipients to manage federal dollars if awarded discretionary grants will affect the timely delivery of individual projects, especially if such entities are not familiar with federal contractual requirements, such as National Environmental Policy Act (NEPA), Davis Bacon, and Buy America.
- We believe being able to meet process requirements, project readiness, and the resulting ability to expend grant funding should be an important evaluation factor in preparing for grant awards and in the timing and deadlines for NOFOs and applying for grants.
- For successful and timely implementation to occur, cooperation, coordination, and collaboration with the agency responsible for administering the grant remains hugely critical prior to award of a grant.

## CONCLUSION

AASHTO and its members are thrilled for the chance to implement this historic legislation in the coming months and years to deliver public benefits to every corner of our country. Thank you again for the Environment and Public Works Committee's unrelenting stewardship and support in getting the IJA across the finish line. I'm honored for the opportunity to testify today, and I'm happy to answer any questions.

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