

Policy Resolution PR-7-19
Title: AASHTO 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;

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;

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; now, therefore, be it

Resolved, That 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);

Resolved, That 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);

Resolved, That 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, That 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);

Resolved, That 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);

Resolved, That 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);

Resolved, That 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);

Resolved, That the Nationally Significant Highway and Freight Projects discretionary program (also known as INFRA) should be reformed 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);

Resolved, That the flexibility in the use of the Congestion Mitigation and Air Quality Improvement (CMAQ) program funds should be increased 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);

Resolved, That preventive maintenance projects should be allowed 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

Resolved, That Section 6(f) of the Land and Water Conservation Fund Act should be amended 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).