

THE BOND BUYER

State DOTs challenge 'fix it first' policy in infrastructure act

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The Biden administration's aversion to infrastructure projects that add new highway capacity is a one-size-fits-all outlook at odds with reality of 50 different state-based transportation systems.

That's the message the American Association of State Highway and Transportation Officials passed along to Stephanie Pollack, deputy administrator of the Federal Highway Administration in a Jan. 19 letter.

AASHTO's president and Louisiana's DOT Secretary Shawn Wilson penned the letter in response to the FHWA's December policy guidance that suggested Infrastructure Investment and Jobs Act funds should be restricted to projects that repair existing road capacity instead of adding new capacity and that are transit-oriented, among other things. The proposed [guidance rattled](#) some state transportation advocates.

In its letter, AASHTO said FHWA has now acknowledged that the federal agency "The enacted legislation—and the Congressional intent regarding the Federal-aid Highway Program over the next five years—provides state DOTs with flexibility in how investment decisions are made with formula dollars to meet each state's unique mobility and accessibility needs," Wilson wrote. "At the end of the day, collective efforts of states will go a long way in achieving the outcomes that are fundamentally agreed upon between FHWA and state DOTs."

[Enacted in November 2021](#), the IJA provides \$1.2 trillion for infrastructure projects, including roughly \$550 billion for surface transportation that will be overseen by the U.S. DOT. The [FHWA is seeking public comments](#) as it develops the guidance that will prove crucial to implementation of the law. The agency so far has received 140 responses, including AASHTO's.

State DOTs "very much share" FHWA's policy emphasis on safety, transit, and resilience, and have been leaders in the area, Wilson said.

But the federal “fix it first” guidance is a “one-size-fits-all approach to asset management,” AASHTO said in its letter.

Transportation systems vary greatly among the states and federal money “needs to be flexible enough to reflect these varying degrees of state DOT roadway ownership. A one-size-fits-all approach would create unnecessary gaps and conflicts in meeting the transportation challenges in each state.”

The organization also notes that federal dollars “play a relatively small role” in the transportation sector overall. The Congressional Budget Office estimates that 22.3% of total transportation funding for capital, operations, and maintenance comes from the federal government, with the remaining 76.7% coming from state and local governments.

lacks the authority to restrict how states spend the federal formula funds.



Many state transportation advocates were "outraged" by the Federal Highway Administration's December policy guidance that seeks to restrict states from using IIJA funds for highway capacity-adding projects, said Robert Poole, director of transportation policy at the Reason Foundation. *Bloomberg News*

AASHTO's letter does not fully reflect the level of opposition to the FHWA's guidance, said Robert Poole, Director of Transportation Policy at the Reason Foundation.

“Its tone and content are at odds with expressions of outrage that I have heard from more than one state DOT CEO (not from a ‘red’ state) and also discussions I had with a number of senior people at the Transportation Research Board annual meeting in Washington earlier this month,” Poole said. “All continue to be outraged by the FHWA ‘guidance’ letter.”

Poole noted that AASHTO represents 50 states, some of which are happy with the fix-it first policy. “DOTs in fast-growing states, on the other hand, face population and [vehicle miles traveled] growth that are putting tremendous stress on urban highway systems that cannot handle existing and projected traffic levels,” he said.

A group of Republican governors also challenged FHWA’s fix-it first policy. In a Jan. 19 letter to President Joe Biden, the governors called any effort to restrict highway widening efforts a “clear example of federal overreach.”

“Such a policy fails to recognize the difference in state priorities, funding levels, and transportation networks across the 50 states,” said the letter, signed by 16 Republican governors. “Future prosperity would be negatively impacted if this anti-growth mindset is allowed to become firmly entrenched in transportation policy.”

Poole said he was surprised that the Republican governors of Texas, Florida and Arizona did not sign the letter, since those are fast-growing states with capacity-expansion projects underway.