

The Honorable Pete Buttigieg
Secretary of Transportation, US Department of Transportation
1200 New Jersey Ave, SE
Washington, DC 20590

January 25, 2022

Dear Secretary Buttigieg,

Thank you for the opportunity to weigh in implementation of the Infrastructure Investment and Jobs Act, often referred to as the Bipartisan Infrastructure Law (BIL). The undersigned organizations believe that transportation decisions have an effect on the health, equity, and sustainability of our country and our communities. To promote safety and access to everyday destinations for our most vulnerable road users, we urge you to consider the following in the implementation of the BIL.

Transportation Alternatives (Sec. 11109)

Most importantly, we ask that the Federal Highway Administration (FHWA) push states to continue implementing and funding transportation alternatives projects while updated guidance is in process. While the new law does make several changes, projects that were eligible under the Fixing America's Surface Transportation (FAST) Act are still eligible, so there is no need for a delay in holding competitions. In the past, state departments of transportation (DOTs) have been slower to implement Transportation Alternatives than other programs. Given the crisis we are facing in traffic fatalities, particularly among vulnerable road users, and the ongoing pandemic and the need for active transportation opportunities, it is important that FHWA take a leadership role in promoting these projects.

FHWA should also release apportionment amounts for Transportation Alternatives, including Metropolitan Planning Organization (MPO) apportionments as soon as possible. We were disappointed that the Transportation Alternatives apportionments were not released in December 2021 with the majority of FHWA formula programs. States and MPOs may be slow to implement the program until those apportionments are available.

When writing and disseminating updated guidance for Transportation Alternatives, FHWA should:

1. List all eligible projects, including the Safe Routes to School program.
2. Highlight and promote the change allowing states to use Highway Safety Improvement Program (HSIP) funds as a local match for projects that will improve safety.
3. Highlight that large MPOs now have obligation authority over transportation alternatives funds, which should improve the obligation rates of the program.
4. Require states publicly list projects left unfunded and the reasons the project was unsuitable. The BIL changes the ability for a state DOT to transfer 50 percent of transportation alternative funds. The BIL requires that, before a state transfers transportation alternative funds, the Secretary of Transportation first certifies that the state demonstrated that, after running a fair competition and offering technical assistance to eligible entities, there were not sufficiently suitable applications from eligible entities to use the funds to be transferred.

Requiring states to publicize this information will not only aid in transparency and accountability, but it will also allow applicants to understand the concerns with their project, and how they can fix it.

5. Share best practices, including aligning with the [Harvard School of Public Health research](#)¹ on getting federal funds to vulnerable populations as part of project selection. The BIL includes a requirement for states to prioritize projects based on their location and impact in high-need areas, and allows states to define high need based on their state.

The FHWA should also offer processes as to how to define the impact on high need communities. Finally, the FHWA should prepare a future research project to test how these projects impact communities after they are built. The results will help the FHWA and states update their processes for stronger results.

Highway Safety Improvement Program (Sec. 11111)

The BIL makes changes to the HSIP, which have the potential to help slow the rise of traffic fatalities. Specifically, the *Vulnerable Road User Safety Special Rule* requires that in states where vulnerable road users fatalities make up 15 percent or more of overall traffic fatalities, state DOTs must obligate 15 percent or more of their HSIP apportionment to projects and programs aimed at keeping vulnerable users safe from injury and fatality.

However, there is no federal data source that collects a standardized, consistent record of how HSIP funding is broken down across projects. States submit HSIP annual plans every year, but the FHWA Office of Safety reports that this data is also not standardized or comparable across states. To best implement this special rule, FHWA must:

1. Standardize project cost calculations. In order to assess whether a state is compliant with the new requirement to spend money on vulnerable user safety, it will be critical to have an accurate and comparable measure of HSIP funds spent.

Both HSIP annual reports and FMIS must report accurate data. If the FMIS and HSIP reports do not match when determining whether a state has met its obligation requirement, the FHWA should use the smaller of the two values.

2. Set a standard for reporting costs of multimodal projects. These costs should include intersections, bridges, and road projects to determine how much of a project should go to each mode. For instance, when redesigning an intersection, what percentage of costs benefit people bicycling and walking (protected bike infrastructure within the intersection, refuge islands and bulb outs), and what percentage of costs benefit motor vehicle occupants. Presently, there is no uniform method for reporting what percentage of a project benefits vulnerable users, which means it is not possible to hold a state accountable to meeting a set percentage or to compare

¹Cradock AL, Barrett JL, Wei E, Otis B, Pipito A. Examining Practices that Promote Access to Safe Routes to School Programs in Vulnerable Communities. Harvard Prevention Research Center on Nutrition and Physical Activity at the Harvard T.H. Chan School of Public Health, Boston, MA; January 2017. <https://www.hsph.harvard.edu/prc/projects/practices-promoting-srts-vulnerable-communities/>

across states. This data will be needed for effective implementation of the BIL's safety provisions.

Safe Routes to School (Sec. 11119)

1. FHWA should call attention to the fact that up to ten percent of HSIP funds can be used for Safe Routes to School non-infrastructure activities, including funding for managers of Safe Routes to School programs.

Safety Performance Measures

While there are no changes to the safety performance measure in the HSIP section of the BIL, section 402 on performance measures requires *quantifiable annual performance targets that demonstrate constant or improved performance for each performance measure.*

Currently, many of the performance measures used for the HSIP are the same or similar to those used for 402/NHTSA. It is confusing and counterproductive to have similar performance measures but different standards under the two programs. FHWA and NHTSA should both commit to requiring goals for improving performance. Regressive performance measures, where a state DOT's goal is increasing fatalities, should not be allowed.

Increasing Safe and Accessible Transportation Options (Sec. 11206)

This section of the BIL requires states and MPOs to use 2.5 percent of planning funding for the development of complete streets standards and policies and prioritization plans.

FHWA should be clear that the program is meant for the state to develop their own complete streets standards and policies, and not just to fund local governments to do such plans. The state flexibility clause is only applicable to states that have complete streets policies and standards in place, and have a state-wide prioritization plan. FHWA should include regular updates on its website with links to state complete streets standards, policies and prioritization plans.

On behalf of our members and partners all across the country, we thank you for the opportunity to provide these comments. We look forward to supporting the successful implementation of this law.

Sincerely,

American College of Sports Medicine

American Heart Association

American Planning Association

American Public Health Association

Association of State Public Health Nutritionists

League of American Bicyclists

Safe Routes Partnership

YMCA of the USA