



NCSL



# Transportation Governance and Finance

A 50-State Review of State Legislatures and DOTs

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# Presentation Overview

- ▶ Summary of the findings of the NCSL–AASHTO research project on transportation governance and finance
- ▶ Progress summary and next steps
- ▶ Q&A (at the end of the session)

# Project Review

- ▶ **Goal:** To fill a gap in the existing knowledge base about transportation governance by examining the relationships between state legislatures and state DOTs in depth.
- ▶ **Focus:** Primary focus is transportation funding and finance; other areas of transportation governance are also examined.
- ▶ **Topics:**
  - Communication and collaboration
  - Legislative process
  - Legislative oversight
  - Budget and appropriations processes
  - Federal, state and local transportation funding
  - Innovative finance
  - Transportation planning
  - Other legislative and executive interactions in transportation funding and finance



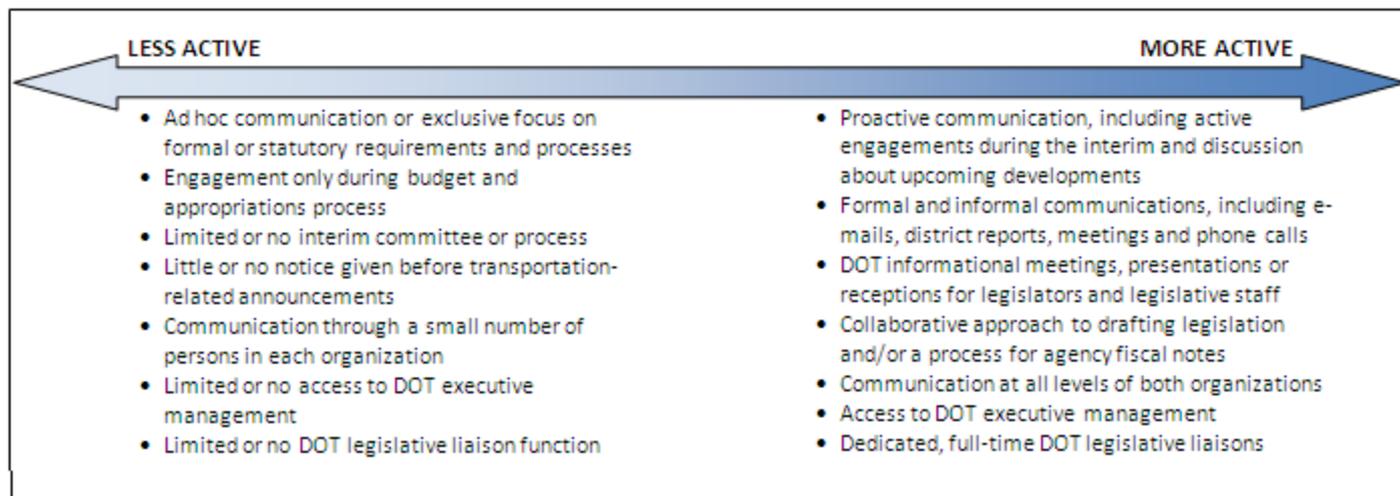
# Project Review

## ▶ Methodology

- Original survey research with legislators, legislative staff and DOT officials in each jurisdiction
- Responses received from:
  - 50 states, D.C. and Puerto Rico on Survey 1 (funding and finance)
  - 50 states and D.C. on Survey 2 (executive and legislative roles)
  - 30 legislators and 26 DOT leaders on Survey 3 (anonymous)
  - 8 states on Survey 4 (brief NLPES questionnaire on evaluation)
  - Substantive feedback received from 33 states during fact-checking process
- Legal and legislative research
- Literature review
- Targeted expert interviews

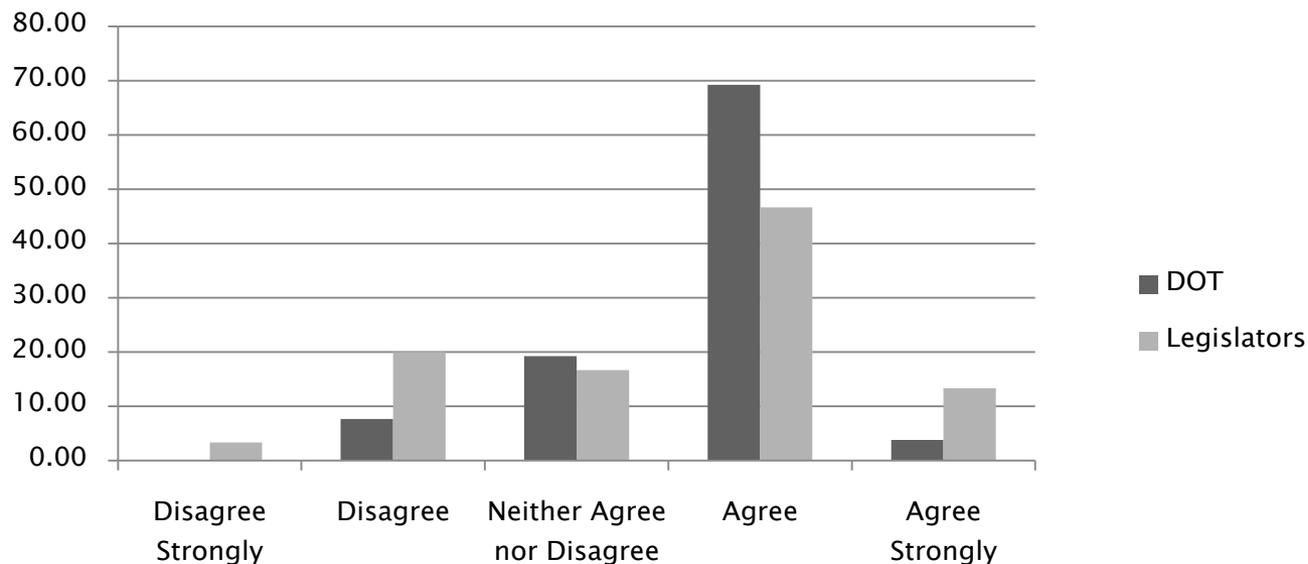
# Findings: Communication and Collaboration

- ▶ State legislators and DOT executives overwhelmingly agree that regular, open, honest and transparent communication is one of the most important elements of effective transportation governance.
- ▶ In practice, communication and collaboration differs significantly across jurisdictions.



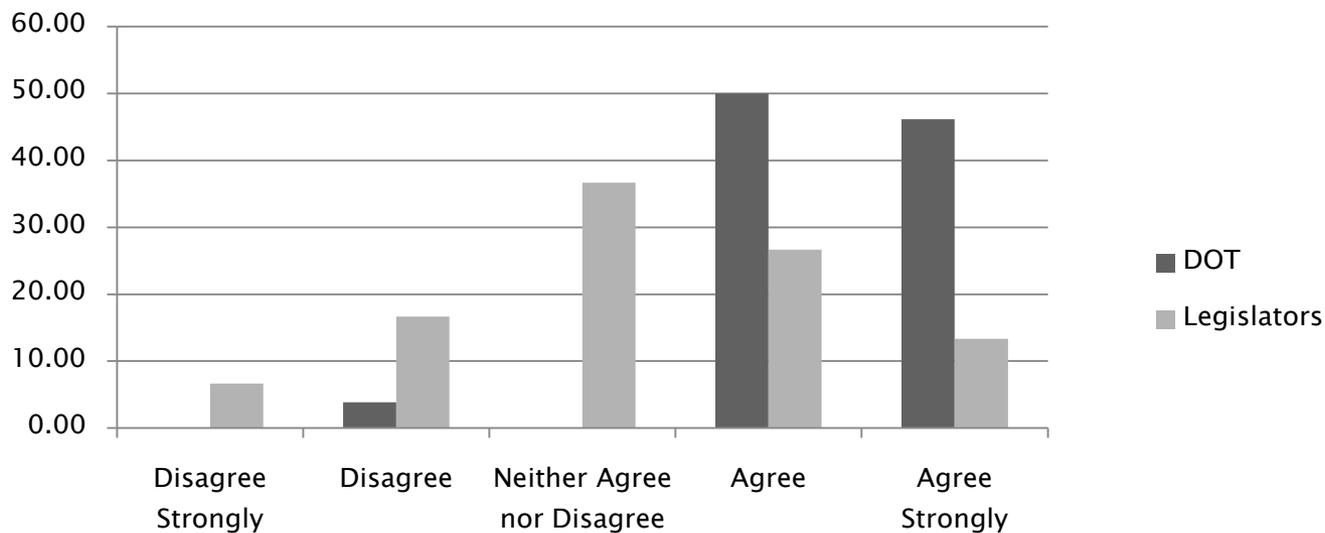
# Findings: Communication and Collaboration

- ▶ Seventy-three percent of DOT officials and 60 percent of legislators surveyed agreed or strongly agreed that the legislature and DOT work together effectively in their state.



# Findings: Communication and Collaboration

- ▶ An overwhelming 96 percent of DOT executives surveyed believed that the DOT is open and transparent in how it shares information about its activities and decisions; fewer than 50 percent of responding state legislators agreed.



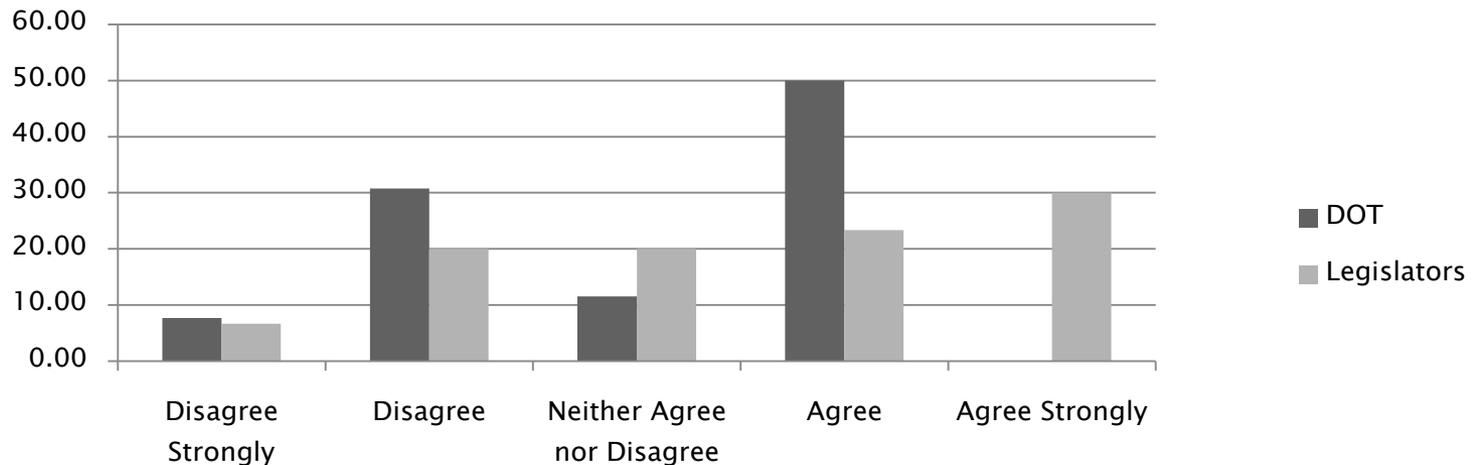
# Findings: Governance

- ▶ **Separation of powers necessarily leads to areas of overlap and tension**
- ▶ **Legislation**
  - Legislature's power to enact laws is balanced by executive veto authority and other executive involvement in the process
  - DOTs in at least 17 states and D.C. can introduce legislation through the lead executive or by a request to the legislature
  - Hi., N.D., Okla., Vt. And W. Va. DOTs can draft or present bills for legislative consideration
  - Wyo. has a fully collaborative process to draft legislation
  - Several state DOTs lobby the legislature; this is prohibited in at least La. And Texas
  - In Alaska, Minn., N.D., W. Va. and Wis., DOTs must prepare fiscal notes for legislation that affects them
  - Va. and Wis. DOTs also provide policy analyses

# Findings: Governance

## ▶ Legislative oversight of DOTs

- Theoretically, a fundamental check and balance
- However... **Only about half of DOT executives and state legislators surveyed agreed that a legislature has a fundamental responsibility to oversee DOT operations.**



- **But over 40 percent of legislators and no DOT officials surveyed think their state's DOT should be subject to additional independent oversight and accountability.**

# Findings: Governance

## ▶ **Legislative oversight mechanisms**

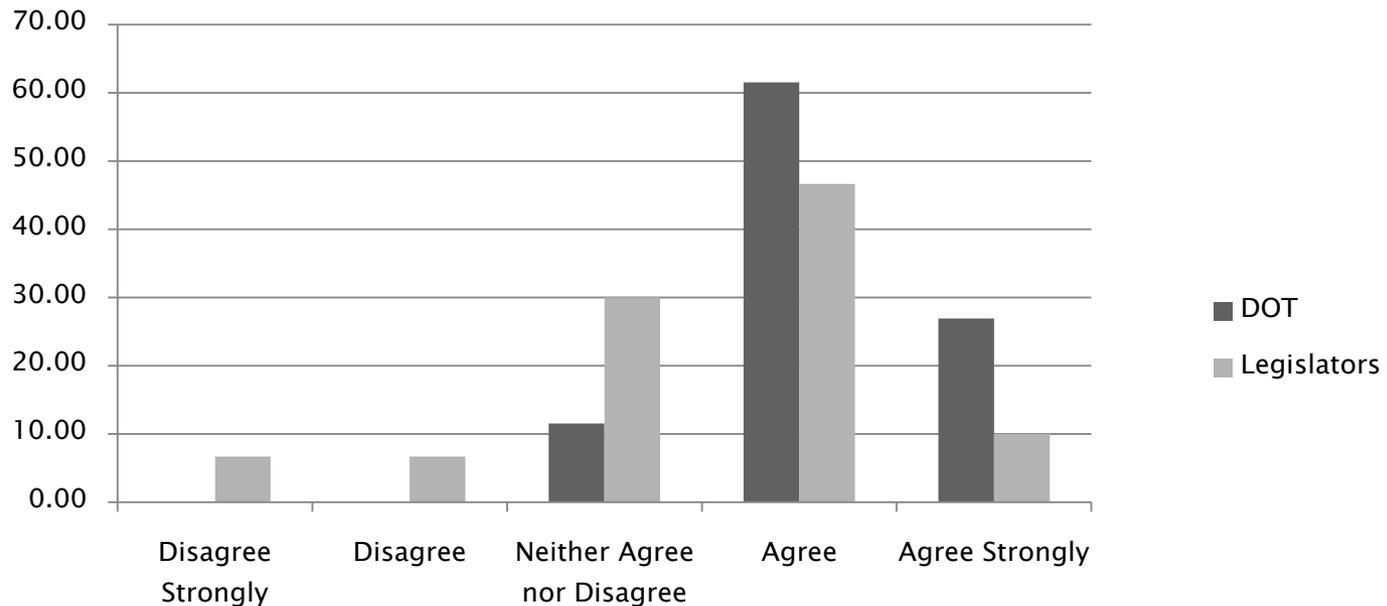
- Committee oversight
- Transportation/DOT leadership appointments
- Review of administrative rules and regulations
- Performance goals
- Program evaluation and sunset reviews
- Reporting requirements
- Legislative requests for information from DOTs
- Independent sources of transportation information

## ▶ **Resources to support DOT compliance**

- At least 9 state DOTs have received appropriations to support compliance with legislative oversight mechanisms

# Findings: Governance

- ▶ Nearly 90 percent of DOT officials surveyed believed that the DOT acts in a way that is consistent with legislative intent, while only 57 percent of responding legislators agreed.



# Findings: Funding and Finance

- ▶ **Budget and appropriations**
  - All but 8 states and P.R., executive agencies submit budget requests to the governor and also to a legislative body
  - In practice, transportation budget flexibility is limited
- ▶ **Federal funding**
  - Federal funding accounts for around 20 percent of highway and transit funding
  - At least 15 states and D.C. allow at least some federal funds to flow directly to the state DOT without state appropriation
  - In Ill., Minn. and S.D., funds are reviewed and reflected in state budget documents but can be spent without legislative action
  - Other states have more active legislative role by appropriating federal funds at the agency, program, category or project level, or by setting expenditure limits

# Findings: Funding and Finance

## ▶ State funding

- States provide about half of all surface transportation funding
- Legislatures exercise power over revenues and appropriations
- Only Colo., Hi., Mo., Penn., Wyo. and D.C. report allowing any state funds to flow directly to a DOT without appropriation
- Both revenues and funds can have restrictions (except Alaska!)
  - 26 states restrict fuel tax revenues to highways and roads only
  - At least 35 states direct use of transportation funds or accounts
  - Restrictions and prohibitions on diversion aren't always effective

## ▶ Local aid

- 27 states distribute funds to local governments *primarily* by statutory formulas based on population, road mileage or other criteria
- 19 use a blend of legislative appropriations and formulas
  - Of those, 11 also provide discretionary grants

# Findings: Funding and Finance

## ▶ Innovative finance

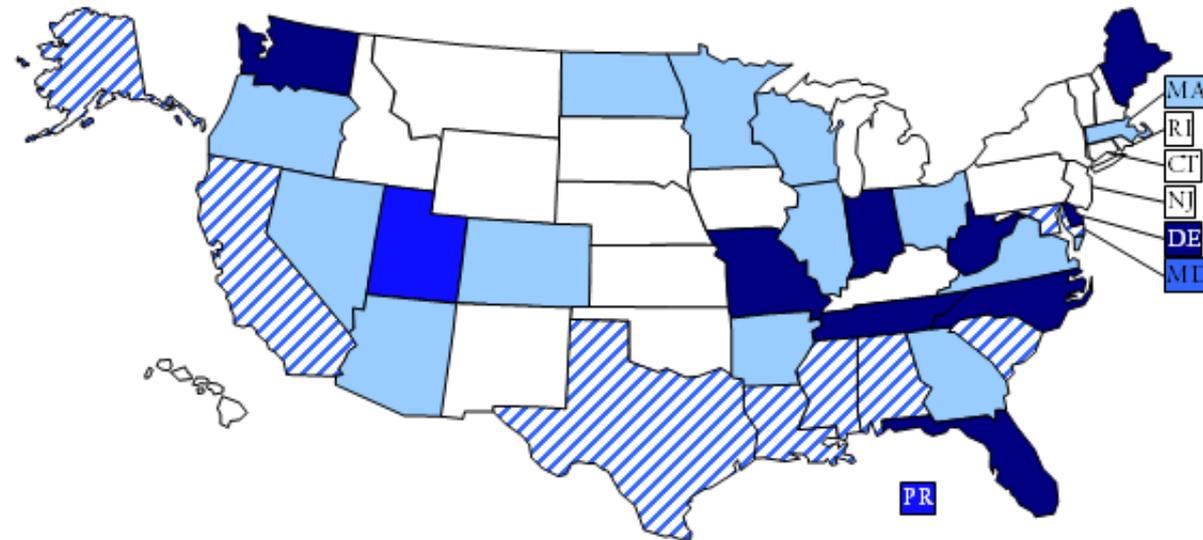
- Tools used to leverage traditional funding sources
- Some--e.g. SIBs and debt financing instruments--require enabling legislation before a DOT can use them
- PPPs and GARVEEs may or may not require additional legislative approval, depending on the state

## ▶ Public-private partnerships (PPPs or P3s)

- Allow more private sector participation than is traditional in infrastructure project delivery and finance
- Can leverage traditional funding but not create new revenue
- As of April 2011, 31 states and P.R. have PPP enabling statutes

# Findings: Funding and Finance

## ▶ PPP Legislative Approval Requirements



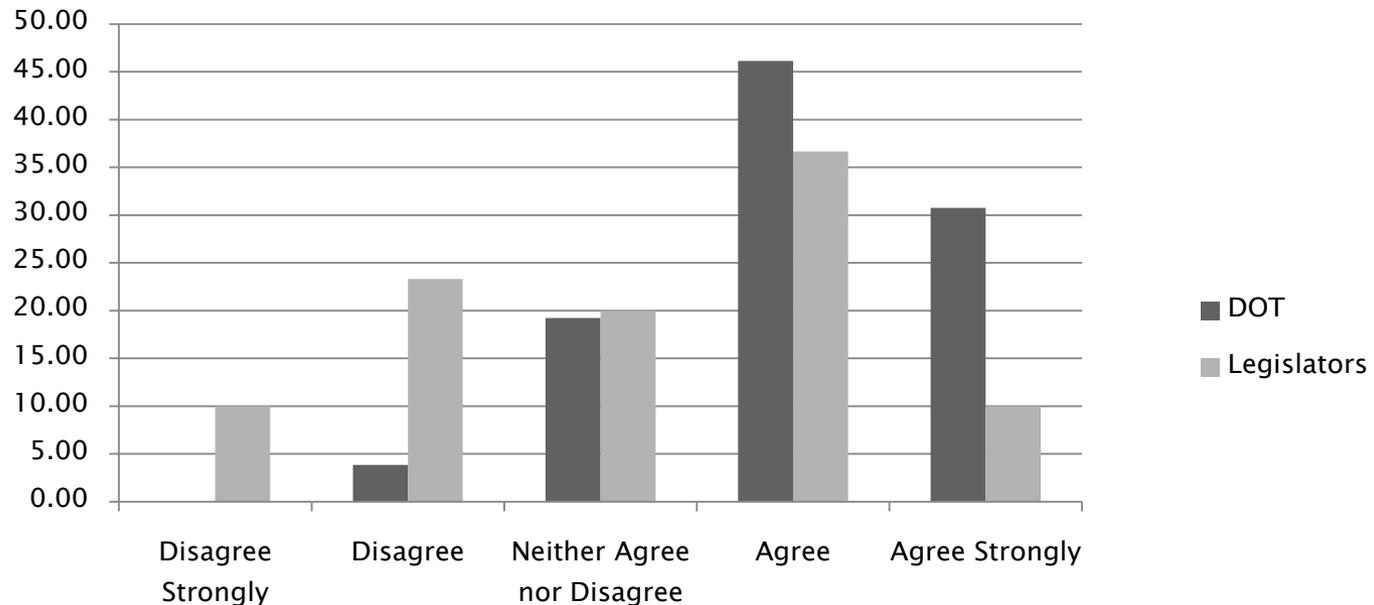
# Findings: Funding and Finance

## ▶ Transportation planning

- Wide range of legislative involvement in transportation planning
  - On one end, Neb. and Wyo. constitutionally prohibit the legislature from prioritizing road projects
  - On the other, at least 17 states require legislative review or approval of DOT plans, programs or major projects
  - Other kinds of legislative involvement:
    - Statutory requirements for planning priorities or processes
    - Approval of general priorities but not specific projects
    - Earmarks
    - Legislative hearings on transportation plans
    - Legislators serving on MPO boards
    - Legislative involvement only for specific modes
    - Informal legislative role only

# Findings: Funding and Finance

- ▶ Seventy-seven percent of DOT officials surveyed agreed that transportation projects are chosen based primarily on merit, not political, personal or other considerations. Responses from legislators were more divided.



# Findings: Funding and Finance

## ▶ Retention of surplus or excess funds

- In most states, unspent funds revert to a DOT-administered transportation fund
- In Alaska, Fla., Ill., Ky., N.J., Texas and Wash.: Funds lapse and DOT must seek new appropriation or expenditure authority
- In Calif., Minn., Neb., N.D. and Wis.: Funds are retained but must be re-appropriated

## ▶ Legislative actions to control DOT costs

- Low bid requirements (many)
- Legislative approval of waivers of competitive selection (Ohio)
- Downsizing by statute (Va. 2009 Appropriation Act)
- Limits on use of revenues for administrative costs (Nev.)
- Specific reporting requirements (Vt.)

# Progress Summary and Next Steps

- ▶ **Currently in the final publication process**
- ▶ **To be published online and in print late April 2011**
  - To include a synthesis of state legislative–DOT interactions plus individual profiles for each of the 50 states, the District of Columbia and Puerto Rico
- ▶ **Webinar tentatively planned for mid–May 2011**
- ▶ **Looking for other opportunities to actively engage legislative and DOT constituents in this material ...**

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