

Local Authority and Federal Infrastructure Investments

A STATE-BY-STATE
ANALYSIS



About the National League of Cities

The National League of Cities (NLC) is the voice of America’s cities, towns and villages, representing more than 200 million people. NLC works to strengthen local leadership, influence federal policy and drive innovative solutions.

NLC’s Center for City Solutions provides research and analysis on key topics and trends important to cities, creative solutions to improve the quality of life in communities, inspiration and ideas for local officials to use in tackling tough issues, and opportunities for city leaders to connect with peers, share experiences and learn about innovative approaches in cities.

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Table of Contents

3	Foreword
4	Introduction
8	Equity Implications
10	Energy
11	Policy Option - Local Utilities
16	Transportation
18	Policy Option - Electric Vehicle Supply
22	Policy Option - Complete Streets
26	Financing and Funding Options
28	Policy Option - State Infrastructure Banks
34	Policy Option - Federal Funding
36	Recommendations
40	Appendices
42	Endnotes



Foreword

For many years now, America's cities, towns and villages have been dealing with low-quality, degrading, and even dangerous infrastructure. Across the United States, we know from powerful stories and research that these conditions are even worse in underrepresented and minority communities.

Thanks to vital federal support in the form of Bipartisan Infrastructure Law (BIL), Inflation Reduction Act (IRA) and American Rescue Plan Act (ARPA) funds, local governments across the nation have an unprecedented opportunity to update their roads, bridges, broadband networks, public transportation systems, buildings and more, all while addressing longstanding inequities related to poor infrastructure. But even with these federal investments, state limits to local authority can impact the speed with which local leaders respond to these opportunities. As city leaders work to bring their infrastructure into the 21st century, they will need every policy tool available to address historic and future infrastructure concerns.

Now in its eighth year, NLC's annual state municipal league report showcases the value of forming close local and state partnerships, particularly as city leaders work to address their infrastructure needs. This report provides a glimpse into four policies that can be used to improve local infrastructure and address inequities with thoughtful planning and community engagement.

At NLC, we believe that municipal leaders—the governments closest to the people—are best positioned to make decisions on behalf of their communities. We know this value is shared by state municipal leagues and we are excited to partner together on this research effort – which demonstrates that local leaders are best equipped to deal with difficult challenges when they have the flexibility to come up with solutions they can tailor to their own cities. NLC relies on this report, along with our connections with state municipal leagues across the country, to be the voice for the local leaders whose voices have been stifled through preemptive measures.

We hope this year's report will help inform local leaders across the U.S. not just about the current landscape of state preemption, but the potential they have to create partnerships with their state municipal leagues and state leaders that can lead to equitable implementation of better, stronger, safer infrastructure everywhere.

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Introduction

Access to safe, functional and high-quality infrastructure was the top priority for local governments of all sizes and socioeconomic compositions in NLC’s 2022 *City Fiscal Conditions Report* and continues to be essential for thriving communities.¹ Infrastructure in the United States has long been rated as low quality and even dangerous, and until recently local leaders struggled to find the resources and authority to address these issues.^{2,3,4} The historic passage of the Infrastructure Investment and Jobs Act (IIJA, also known as the Bipartisan Infrastructure Law, or BIL) and the Inflation Reduction Act (IRA) by Congress provides localities new opportunities to address mounting infrastructure concerns around America’s roads, railways, broadband networks and energy infrastructure, as well as water and sewer systems.

As local governments apply for, receive and invest federal and state allocations from BIL, IRA and the American Rescue Plan Act (ARPA), local leaders will consider best practices to address their local infrastructure needs. But they must do so in the face of varying regulatory requirements at the state level. Municipalities need a wide array of tools to improve infrastructure conditions, but some states remove tools available to communities through state preemption of local control. Preemption—the limiting of local government’s ability to address issues— can stymie the positive impacts of federal legislation and available funding.* Although local governments cannot solve every infrastructure concern alone, local authority or “home rule” over infrastructure issues allows cities, towns and villages to determine their needs based on their local contexts. Preempting this local autonomy could hamper investment in future infrastructure projects.

In 2021, the American Society of Civil Engineers gave America’s infrastructure an overall grade of C-, highlighting the demand for local access to policy tools capable of addressing these needs.

NLC’s forthcoming *Municipal Infrastructure Conditions Report*, which reviews how municipal leaders rate their own local infrastructure conditions, will be released in February 2023.

* See NLC’s [Principles of Home Rule for the 21st Century](#) for more details on addressing preemption

NLC’s 2016 report, *Paying for Local Infrastructure in A New Era of Federalism: A State-by-State Analysis*, detailed the ways states often limit local governments’ ability to self-help and fund their own infrastructure, making federal infrastructure investment critical. However, even with new federal funding opportunities now available, **state preemption of local governments continues to work against the potential positive impacts of federal funding, creating a mirage of assistance to communities that may be in the most need and directly impacting how those communities can respond to these opportunities.**

Hence, with an update to the previous analysis, this report examines equity implications for infrastructure investments. Without a focus on equity, the impact of these investments can contribute to increased inequity for municipalities and their residents. This analysis also explores State Infrastructure Banks (SIBs) and investigates three new policy areas related to infrastructure: energy, transportation, and financing and funding opportunities (see Appendix B). Through conversations with NLC’s network of state municipal leagues, NLC researchers selected these four policies because BIL, IRA and ARPA can impact each of these policies and states may limit local authority in these areas.

Researchers excluded other infrastructure policy options, such as various tax and fee financing structures and public-private partnerships, due to the limited updates in legislation from the 2016 report. Potential areas for future research include alternative fuel solutions, Green Tariffs, Vision Zero and more.

For this report, NLC researchers collected data for each policy through literature review, surveys, and reviews of state legislation and relevant court decisions. In each section, we highlight a promising policy practice for localities to implement and discuss the national landscape related to the topic as well as provide a case study highlighting this practice.

To learn more about additional infrastructure funding policies, check out NLC’s 2016 report [Paying for Local Infrastructure in A New Era of Federalism: A State-by-State Analysis](#)



KEY FINDINGS

The analysis of these four different policies for all 50 states and the District of Columbia (DC), including municipal utilities, Electric Vehicle Supply Equipment (EVSEs), Complete Streets and SIBs, provides the following findings:

ENERGY

- ◆ 23 states allow local governments to participate in Power Purchase Agreements (PPAs)
- ◆ 10 states expand local government authority by enabling Community Choice Aggregation (CCAs) for power supply

TRANSPORTATION

- ◆ 38 states have no precedent for local government electric vehicle (EV) infrastructure standards

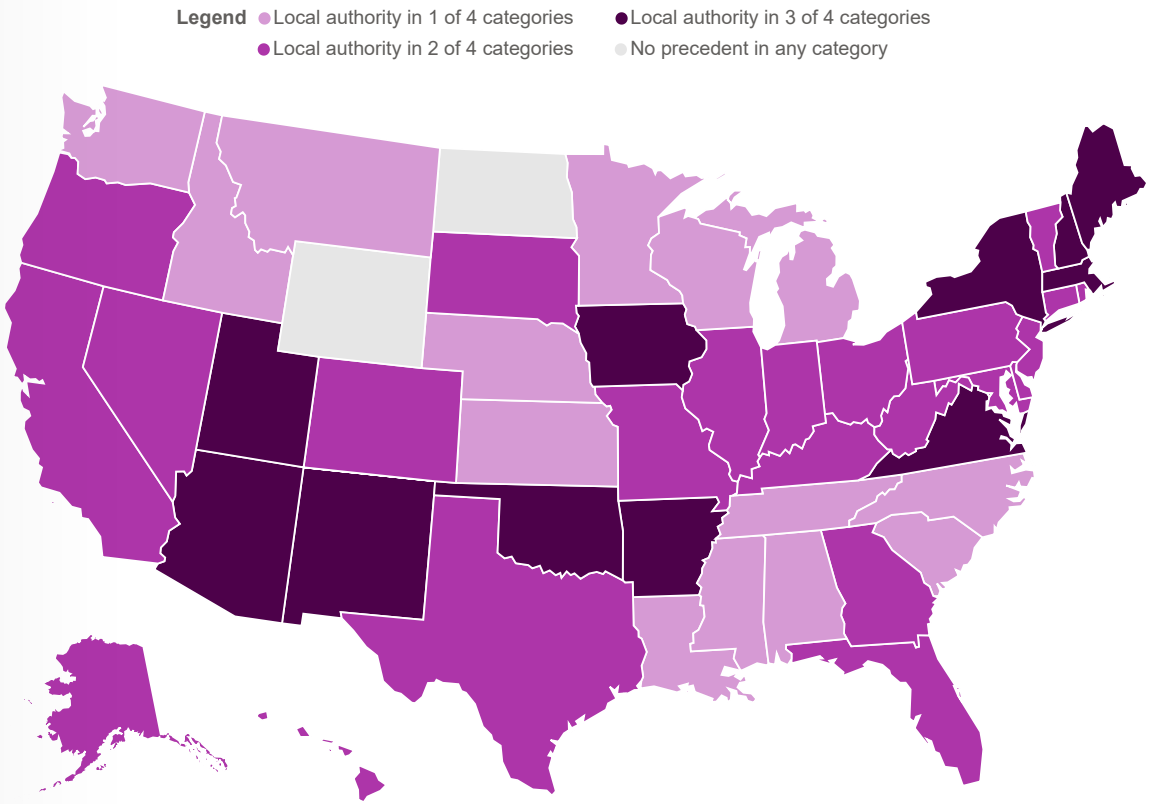
- ◆ 33 states and DC have a state Complete Streets policy with at least one local government Complete Streets Policy

FINANCING AND FUNDING OPPORTUNITIES

- ◆ 22 states have an active infrastructure bank and at least 9 states have authorized SIBs for capitalization

In this report, NLC researchers found that the majority of states allow local authority over one of the four policies reviewed (Figure 1). However, there are 13 cases where states limit local authority through preemptive measures and 44 cases with no precedent of local authority over one of the reviewed policies. Although a lack of precedent can lead to more local authority in some cases, if a municipality lies within a Dillon’s Rule state they cannot pursue policies without the express permission of state or federal legislation.⁵ States can support local authority by setting policy floors that allow municipalities to develop policies on their own or with the support of their state. States can also expand local authority, such as by providing financing opportunities to support local policies.

Figure 1: Local Authority Across All Policies



By preempting localities and not expressly allowing opportunities for local authority, states limit how local governments can respond to situations impacting their communities and residents. As localities work to apply for and allocate their BIL, IRA and ARPA funds, having access to all available policy tools will allow municipalities to more readily adapt and respond to these funding opportunities. Overall, our analysis finds that states should encourage, incentivize or authorize local governments to:

- ◆ Create or participate in low-interest loan funds or SIBs to help municipalities fund larger infrastructure project costs
- ◆ Prepare for widespread EV adoption and invest in EV infrastructure
- ◆ Participate in PPAs to increase local renewable energy usage
- ◆ Enable CCA to maximize local authority over energy supply
- ◆ Implement a Complete Streets policy and create relevant local standards

Equity Implications

Infrastructure choices have led to longstanding, negative impacts affecting the social, health and economic outcomes for Black, Indigenous and people of color (BIPOC) and disadvantaged communities across the country.⁶ New funding opportunities in BIL, ARPA and IRA encourage municipalities to address previous inequities in infrastructure investment, but a preempted community may not be equipped to use these federal resources to achieve a more equitable and economically connected state.

Historically, communities of color have experienced harm from a lack of infrastructure investment. Past injustices like dividing predominantly BIPOC neighborhoods with federal highways, limiting BIPOC access to necessary government services, and excluding BIPOC from employment opportunities remain unaddressed.⁷ Today, BIPOC households still experience inequitable access to functioning infrastructure. For example, households of color are twice as likely to take public transportation but also more likely to lack sufficient public transit options compared to white households due to long periods of disinvestment.⁸ People of color are less safe on roadways as well, with Native and Black Americans being more likely to die while walking along roadways than other racial or ethnic groups.⁹ Pedestrian deaths are also more concentrated in low-income neighborhoods and southern BIPOC metropolitan areas. Additionally, BIPOC communities suffer more from environmental hazards, including low air and water quality, higher proximity to superfund sites, limited access to green spaces and more.¹⁰ Furthermore, events such as Hurricane Katrina and the water crises in Flint, MI, and Jackson, MS, underscore the ongoing, long-term impacts environmental factors can have on communities lacking adequate infrastructure investment.

To address these longstanding injustices— which impact entire communities, not just those areas in which BIPOC individuals live— state and local leaders must ensure they distribute infrastructure funds to the places suffering from historic under-investment.^{11, 12} With federal investments creating jobs and economic opportunities, it is important to not only consider where infrastructure funds are going, but to also ask:

- ◆ Who benefits or is excluded from these investments?
- ◆ What employment and engagement opportunities are available for historically disadvantaged communities?
- ◆ How can feedback from residents of all backgrounds be provided throughout project development?

To prioritize equity in infrastructure projects, President Biden established the Justice 40 initiative at the federal level via executive order, allocating 40 percent of certain federal funds to disadvantaged communities that are overburdened by environmental pollution. Justice 40 has similar goals to the ongoing Opportunity Zones program, which invests in low-income communities across the country. Additionally, the Biden Administration launched a BIL technical resources assistance and engagement program to reach small and minority-owned businesses.¹³ To ensure this outreach and work is successful, the Biden Administration is modernizing the US Department of Transportation's (USDOT) Disadvantaged Business Enterprise rules while expanding capital loan programs for small, disadvantaged businesses working on BIL contracts.¹⁴

While these measures will apply to federal infrastructure investments, state and local governments are also working together to incorporate an equity focus into their infrastructure projects. In 2018, Maryland state and local governments began increasing opportunities for minority-owned, woman-owned and disadvantaged businesses to participate in infrastructure development and delivery. This program was ranked one of the strongest equitable business programs in the nation because of its emphasis on staff procurement education, contracting best practices and policy implementation advocacy.¹⁵ Similar “in-between” opportunities for state and local collaboration are available through SIBs, federal swap programs and direct grant programs.¹⁶ Programs like this at the state level can help local governments complete projects that are too large for local government funding alone.

Elected leaders can create an equitable future for infrastructure investments across the nation by utilizing this historic federal investment in infrastructure to embed equity and community engagement in projects from the start.

Headwaters Index

Small or rural communities often lack the staffing, resources and expertise needed to apply for federal and state funding. Historically, limited capacity has created a legacy of disinvestment in rural communities, especially rural communities of color, by establishing an urban/rural divide and a large vs. small population gap. Headwaters Economics has created a [Rural Capacity Map](#) to help identify these communities. State and local leaders can incorporate the data from the Rural Capacity Map to determine gaps in staffing and expertise they may need to support local infrastructure.



Energy

This section reviews state laws that allow municipal governments to leverage Power Purchase Agreements (PPAs) and Community Choice Aggregation (CCAs) to supply renewable energy. Local governments have a strong interest in controlling their electricity supplies to ensure reliable service, minimize costs to residents and utilize renewable energy to pursue sustainability goals. Considering current and impending climate change impacts, it is critical for local leaders to understand and address both energy use and the development of new approaches to energy generation. Municipalities also have an economic interest in pursuing renewable energy, especially as the US attempts to re-shore employment opportunities in clean power generation and many US companies invest in renewable energy implementation. When addressing these interests of growing a healthy economy and reducing climate change impacts, local leaders must consider how their policies will impact BIPOC communities. Overall, individuals experiencing socioeconomic disparities are more likely to be impacted by climate change so incorporating an equity focus on these policies can address these concerns.¹⁷

Nearly 65 percent of states allow localities to leverage PPAs or expand local authority through CCAs (Figure 2). However, as shown in Figure 2, six states limit local authority through preemption while 12 states have no precedent of local authority over PPAs and CCAs.

33

states allow physical PPAs for local governments

30%

of states that allow physical PPAs also enable CCA

6

states preempt cities from utilizing physical PPAs

POLICY OPTION Local Utilities

Local leaders possess several tools to help them influence their electricity supplies, but municipal utilities— those fully owned and operated by local governments— give local governments the highest possible level of control over their energy. Municipalization allows local governments to have more control over their energy supplies and delivery as to better reflect the wants and needs of residents. For example, localities with a municipal utility may be better able to achieve emissions reduction goals by selecting sources of renewable energy to power their communities.

Currently, more than 2,000 cities, towns and villages in the US own and operate a municipal utility to power their communities.¹⁸ Municipalities in every state may form a municipal utility, but the specific processes and requirements for doing so vary from state to state. Some state laws set the process a municipality must go through to acquire an electric plant as well as the price, while other states may require a citizen referendum or petition to the state’s public service commission to allow for the creation of a municipal utility.

While municipalization can provide great benefits to communities, the process of forming a municipal utility and the additional responsibilities of ownership and operation can prove burdensome. Many local governments do not have the capacity to operate a municipal utility and may look to other means to pursue renewable energy goals. PPAs are a powerful tool allowing localities to procure renewable energy without operating the entire electric system as a municipal utility would. A PPA is a contract between a customer, such as a local government that wants to purchase renewable energy, and a utility or developer who facilitates the electricity project. In some cases, a third-party developer may install and operate an energy generation facility on the purchasing municipality’s property. In other cases, a nearby facility supplies the PPA’s generated energy and delivers it to the municipality. State policy determines a local government’s ability to procure renewable energy through PPAs. Municipalities in every state can also participate in virtual PPAs, which are agreements between an existing renewable energy plant in another state that produces the electricity purchased by the locality. Virtual PPAs are often less financially beneficial but have a smaller negative environmental impact. All states with deregulated energy markets allow for PPAs, but some states with regulated energy markets restrict local governments’ ability to enter into a PPA.¹⁹

A PPA is a contract between a customer, such as a local government that wants to purchase renewable energy, and a utility or developer who facilitates the electricity project.

Some states with deregulated energy markets have gone further in expanding local power by enabling CCA. CCA allows local governments to procure power from alternative energy suppliers while continuing to receive transmission services from the existing utility provider.²⁰ In states allowing CCAs, local governments have a clear means of exerting control over their electricity supplies. Specifically, CCAs allow municipalities to operate outside the bounds of investor-owned utilities without handling the transmission and energy delivery or going through the process of municipalization. CCAs allow municipalities to reduce costs and reflect the needs and wants of the community. They are typically structured so that utility customers in the jurisdiction are automatically enrolled in the program, which offers multiple purchasing options for different amounts of renewable energy. Customers can also opt out of the CCA altogether.²¹ CCAs are a powerful option for local governments pursuing renewable energy goals.

Renewable Portfolio Standards

More than half of the states have established a renewable portfolio standard (RPS) requiring electricity suppliers to derive a certain percentage of their electricity from renewable sources. Those standards drive renewable energy production and economic development while achieving state and local sustainability goals.⁸² These policies play a central role in driving renewable energy markets; however, RPSs vary widely from state to state in their timelines, renewable energy targets, and the energy sources eligible to meet those requirements.

Typically, public utility commissions have minimal regulatory control over municipal utilities because they are community-owned

and -operated. However, state policies regulate municipal utilities through RPSs. RPSs always regulate investor-owned utilities, but many also include requirements for municipal or co-op utilities at a lower rate or with special conditions.

NLC supports a national renewable portfolio standard that increases the use of carbon neutral energy and promotes energy efficiency, with the goal of sourcing at least 50 percent carbon neutral energy by 2030 and 100 percent by 2050 or sooner.



Allowing municipalities to fully participate in PPAs and CCAs lets them benefit from economic opportunities that arise from the growing renewable energy industry. New renewable energy projects can bring new jobs, attract business and lower energy prices.²² Localities should have the option to reap these benefits and to respond to residents' energy needs and preferences.

PPAs and CCAs are some of the most impactful tools for municipalities transitioning to renewable energy sources, but municipalities in states restricting these tools have other options for pursuing their goals. Virtual PPAs are available in every state, and some states also allow municipalities to participate in Green Tariffs, which allow customers to enter into a special agreement with an existing utility provider to contract renewable energy at a fixed rate. Many states have financing opportunities available to municipalities for renewable energy or energy efficiency projects. Additionally, some states offer grant programs, low interest loans or production incentives of varying sizes.²³

National Landscape

In recent years, physical PPAs and CCAs have increased in popularity for local governments seeking to utilize renewable energy and exert choice over their energy supplies outside of their utility provider.

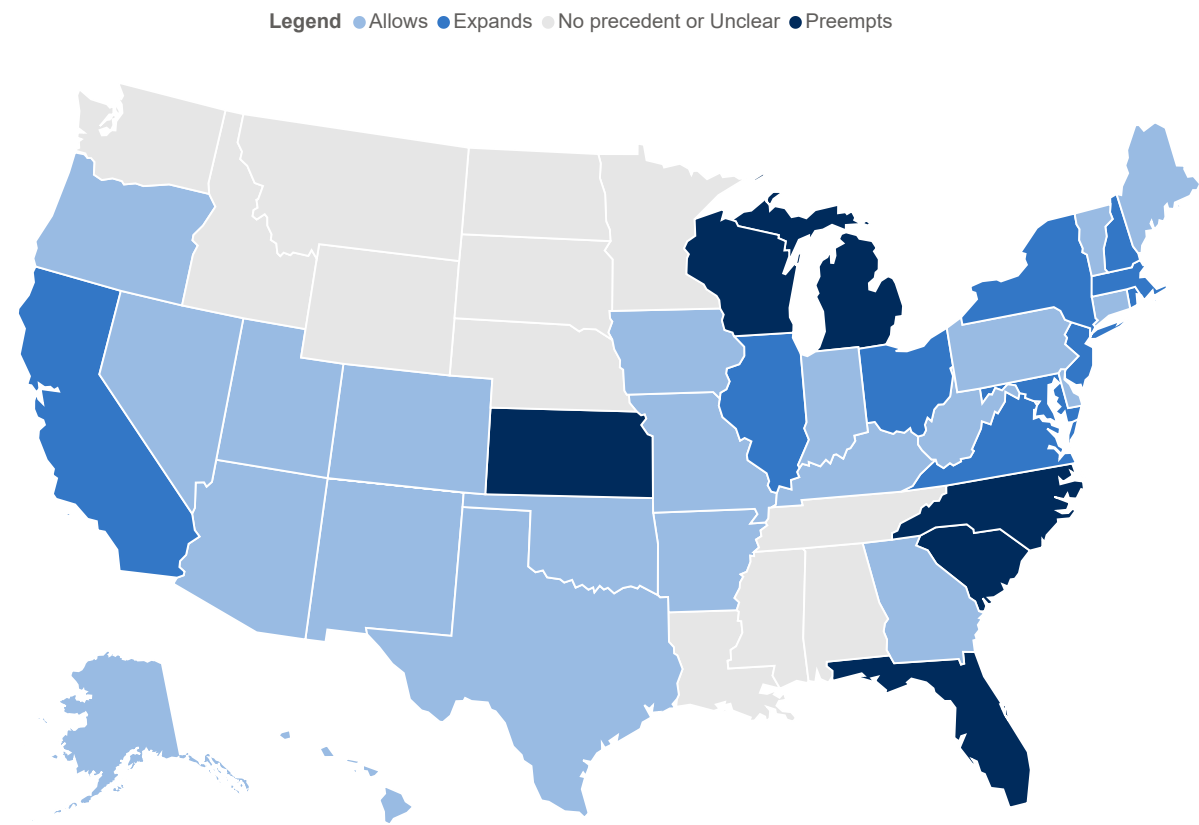
At least 30 states allow local governments to participate in physical PPAs. Some states have passed statutes that explicitly permit PPAs for local governments, and other states have approved and passively allowed local governments to complete PPAs without any specific legalization.²⁴

In 1997, Massachusetts was the first state to implement CCA. Ten states have since authorized it. More than 1,800 local governments have adopted CCAs, which now collectively serve more than 36 million people.²⁵ Two states have enabled CCAs since 2019, and several more states are considering legislation to do the same.

KEY FINDINGS

- ◆ State allows local governments to participate in physical PPAs (22 states and DC)
- ◆ State expands local government authority by enabling CCAs (10 states)
- ◆ State preempts local government’s ability to participate in physical PPAs (6 states)
- ◆ State has no precedent or unclear policy for local government participation in physical PPAs (12 states)

Figure 2: Local Authority to Participate in PPAs and CCAs for Utilities



CASE STUDY:
Utah’s Community Renewable Energy Program

The State of Utah has created a unique path for its municipalities to achieve 100 percent renewable energy supplies through the Community Renewable Energy Program (CREP). CREP serves as a model for enabling local governments to partner with major utilities to deliver a customer choice model while meeting local sustainability goals.

This one-of-a-kind initiative originated from the efforts of three local governments (Salt Lake City, Park City and Summit County) and the state utility provider, Rocky Mountain Power, to reach renewable energy goals. Together, with Rocky Mountain Power, local leaders brought their ideas to the Utah State House, creating legislation that would give communities a path to renewable energy.²⁶ The state passed the resulting law, HB 411, in 2019, directing Utah’s Public Service Commission to implement a 100 percent renewable plan for communities and their customers who choose to opt into the program.

The law directs the public service commission to include stakeholders in planning and procurement decisions, and to provide legislative guidance enabling participating communities to opt into the program.²⁷

The resulting CREP required local governments to make initial commitments to participate in 2019. Participating communities share the cost of the Public Service Commission process which determines the renewable energy rates. Once they have agreed to the projected rates, each community is responsible for adopting an ordinance to finalize their participation. Both Rocky Mountain Power and the Utah Public Service Commission are working with cities throughout the program design and implementation process. As of 2022, 18 local governments have signed on to the program’s Governance Agreement to move forward with the program, which will be executed by the end of 2023.²⁸



Transportation

This section highlights electrical vehicle (EV) charging and Complete Streets policies. Two-thirds of BIL funding is dedicated to transportation, and these two policies provide opportunities for local and state leaders to partner in tackling issues such as climate change, emerging technology and road safety. As local governments work to improve their transportation sectors alongside their state governments, they must operate under existing state laws or work together to change laws to ensure BIL and IRA funding can be used to their full potential.

As shown in Figure 3, nearly 75 percent of states have no precedent for EV supply equipment (EVSE) and eight states limit local authority through preemption; only four states expand local authority and none explicitly allow deployment of EVSE.

75% of states have no precedent when it comes to local electric vehicle charging

8 states preempt local governments in electric vehicle charging

4 states expand the role of local governments in electric vehicle charging



On the other hand, local authority is greater surrounding Complete Streets policies. As shown in Figure 4, the majority of states expand opportunities for Complete Streets policies, 15 states allow local authority over Complete Streets policies and two states have no precedent.

67% of states and at least one municipality in the state have a Complete Streets policy

13 states don't have a Complete Streets policy but at least one municipality does

3 states have a Complete Streets policy but no municipalities in the state do

2 states have no Complete Streets at the state or local level

POLICY OPTION

Electric Vehicle Supply

Both BIL and IRA include funding for clean energy transportation programs. Key provisions within both laws advance the adoption of EV and their chargers, known collectively as electric vehicle supply equipment (EVSE). BIL provides \$7.5 billion for states and municipalities to build out a national supply of 500,000 EVSEs. BIL categorizes this investment into two funding opportunities: the National Electric Vehicle Infrastructure (NEVI) program and competitive grant applications. The NEVI program gives \$5 billion directly to states to build out EVSEs along the US alternative fuel corridor.* BIL required states to submit a NEVI plan to the Joint Office of Energy and Transportation, which they approved September 2022.²⁹ The remaining \$2.5 billion will be used for competitive grants to fill gaps for rural, disadvantaged and hard-to-reach communities. Additionally, the Energy Efficiency and Conservation Block Grant (EECBG) program, funded under BIL, funds the deployment of zero-emission transportation and its associated infrastructure, EV bus programs and more.³⁰

While BIL funds EV chargers, IRA will accelerate the uptake of EVs through several tax provisions. Cities, towns and villages can use the new tax credit to fund up to 30 percent of the cost of qualified commercial clean vehicles in service before 2033.³¹ The tax credit is limited to \$7,500 for vehicles that weigh less than 14,000 pounds and \$40,000 for vehicles at or above that weight. Through the IRA, municipal residents with qualified low to middle incomes can also receive tax credits when purchasing a used or new clean energy vehicle.³²

As technology rapidly accelerates and federal investment dollars flow, state and local governments must work together from the start to ensure an equitable deployment of EVSEs across every community. As EVs will impact regional and local economies, environments, and communities in unpredictable ways, state leaders must allow local experimentation for best practices to develop in the policy space.

* For more information about the Alternative Fuel Corridor, explore [FHWA's website](#).

It is important to note that EVSE represents only one carbon emissions solution for the transportation sector. While this report will not cover the following, local governments interested in other transportation sector solutions such as alternative fuel solutions (hydrogen, natural gas, ethanol, methanol, and waste-oils) or alternative transportation methods (public transportation, microtransit, and bike and pedestrian infrastructure) should review state and federal laws and programs for additional information.

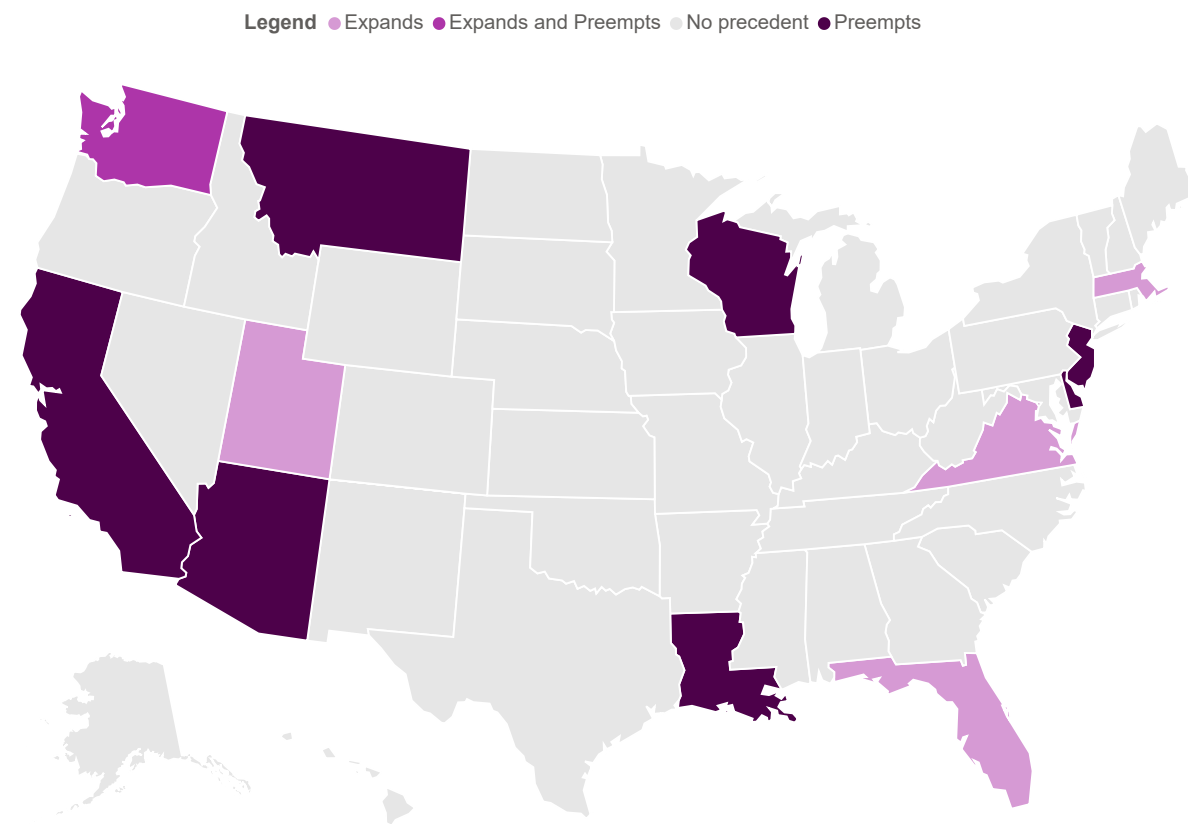
In terms of equity, local leaders should consider how they can place EVSEs in BIPOC and low-income communities and increase their access to EVs in general. Across the country, local leaders can advocate for continued use of and updates to state NEVI plans as well as for equitable EVSE development. For example, Indiana’s Alliance for Equity, Diversity and Inclusion of Electric Vehicles advocated for changes to the state EVSE requirements to ensure the Indiana Department of Transportation’s plans include input from underrepresented voices.³³

National Landscape

To understand the national EVSE preemption landscape, NLC researchers reviewed state laws on local authority to implement EVSEs in their communities.³⁴ The majority of states have no precedent on EVSE local control (38 states). Seven states and DC (AZ, CA, DE, LA, MT, NJ, WI and DC) preempt local governments in establishing their own EVSE laws. Delaware, for example, requires that municipalities with populations exceeding 30,000 adopt ordinances establishing permitting procedures for the installation of EVSE by July 1, 2023. Similarly, California requires municipalities to adopt a streamlined ordinance and process for EVSE within 5-10 business days of submitting an EVSE application. Local governments in Wisconsin may not levy or collect any excise, license, privilege or occupation tax on EV fuel (electricity in this case). New Jersey is nuanced in that state statutes set minimum standards for EVSE deployment and require local master plans to include EVSEs. However, the state limits local authority in development applications for EVSE and Make-Ready parking spaces.

Four states (FL, MA, UT and VA) expand local governments’ powers to deploy EVSEs in their communities. Florida, Utah and Virginia all allow local governments to issue local funding to build EVSE. Massachusetts allows local governments to set aside parking spaces for EVSE and charge local EVSE taxes. The state of Washington both preempts what local governments can do with EVSE while also expanding some of their powers—for more information, review this section’s case study.

Figure 3: Local Authority to Control Electric Vehicle Infrastructure



CASE STUDY:

Washington's EVSE Initiative

When it comes to deploying EVSE in Washington, the state both preempts and expands what local governments can do. Washington preempts local governments by setting legislative floors that require local jurisdictions to develop EVSE regulations. The law requires local governments to allow the use of EVSE and battery charging stations in all zoning areas except critical, residential or resource use areas. Another Washington law requires any regional transportation planning organization with a county population greater than one million residents to work with state and local governments to promote EV use, invest in EVSE and utilize federal and private funding for these efforts. Additionally, Washington requires that all local government agencies, to the extent possible, use 100 percent biofuels or electricity to operate all publicly owned vehicles.³⁵

To assist in the local development of EVSE with these requirements, the Washington State Department of Transportation (WSDOT) offers a grant for local governments, federally recognized tribal governments or utilities to deploy EVSE in rural areas, office buildings, multi-unit dwellings, ports and local government offices. WSDOT additionally offers local governments technical assistance in the deployment of EVSE. At the same time, the state of Washington expands municipal power when it comes to EVSE by allowing local governments to lease land for installing, maintaining and operating EV charging stations or electric vehicle battery exchange stations for up to 50 years for at least \$1 per year.³⁶

KEY FINDINGS

- ◆ The state has no precedent on local EVSE control (38 states)
- ◆ The state preempts local government control of EVSE (7 states and DC)
- ◆ The state expands local control of EVSE (4 states)
- ◆ The state expands and preempts local control of EVSE (1 state)

POLICY OPTION**Complete Streets**

With a large, transformative investment in local, state and national transportation through BIL funding, it is vital for all levels of government to consider how to integrate safety, economic growth, equity and sustainability into transportation projects. Complete Streets policies intersect all four of these issues by designing streets that enable safe use and mobility for all users regardless of age, ability or mode of transportation. The Federal Highway Administration (FHWA) works with state, local and tribal governments to implement Complete Streets as they plan, develop and operate streets and transportation networks.³⁷

As roadway deaths have risen in the last decade, Complete Streets policies have emerged as a way to create safer streets through a variety of infrastructure improvements, such as road reconfigurations.³⁸ A Complete Streets policy aligns with FHWA's Safe System Approach which acknowledges that while human error will occur on roadways, good design can limit fatal consequences. Localities can reduce risks of severe injury and death by designing and managing road infrastructure through Complete Streets implementation. Besides improving safety, Complete Streets provide additional benefits such as reduced carbon emissions, better health outcomes from less motor vehicle congestion, higher retail sales from pedestrian-oriented environments and increased mobility options for all.³⁹ Some localities like Cleveland Heights, OH, have even adopted a Complete and Green Streets policy to emphasize green infrastructure solutions.⁴⁰

As described in the [Equity Implications section](#) of this report, BIPOC communities experience more roadway deaths on average than white communities. To save lives, some communities may find that implementing a Complete Streets policy can address local street safety needs. For other communities, implementing a [Vision Zero Framework](#) or applying for [Safe Streets and Roads for All Grants](#) can address residents' needs. As the government leaders closest to the people, municipal leaders are most equipped to implement solutions that improve transportation and mobility for residents. Providing local governments with access to funds, whether through state, federal or private grants, can further strengthen the policy's implementation and equitably improve resident outcomes.

Federal and State Truck Weight and Length Limits on Roadways

In 2015, the FHWA released a Congressionally mandated report compiling state truck size and weight limit laws enforced as of October 2012. [The report](#) addresses laws related to the National Highway System (NHS), of which the Interstate Highway System roadways are a subset.

The report demonstrates that all states have laws in place to ensure compliance with federal requirements. However, some state laws allow sizes and weights on non-interstate highways that exceed the current federal truck size and weight limits. The weight, length and axle-configuration of cars, heavy trucks and tractor trailers have an impact on road safety and road integrity. Municipal officials charged with road maintenance know the kind of damage done to pavement and the record of accidents involving cars, heavy trucks and tractor trailers in their communities. Understanding the rules concerning truck weights and lengths allows municipal leaders to focus their advocacy on those most responsible for conditions in their communities.

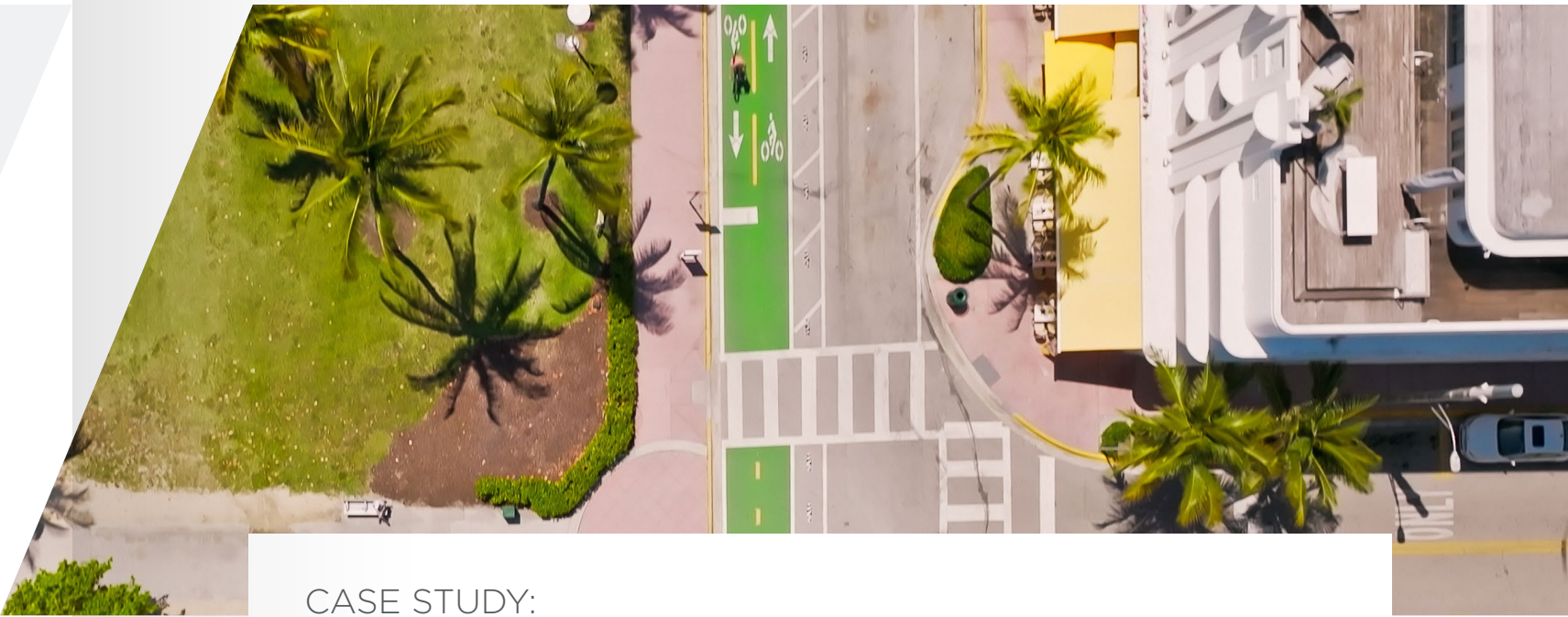
National Landscape

Across the country, governments have adopted more than 1,600 Complete Streets policies, the majority by cities, towns and villages.⁴¹ Oregon was the first state to adopt a Complete Streets-like policy in 1972. In 1995, San Francisco, CA, was the first city to adopt a Complete Streets policy by passing a Transit-First ordinance, which the city last updated in 2005.⁴²

At the state level, 18 states and DC have adopted a statutory Complete Streets policy as of April 2022.⁴³ An additional 18 states have state departments of transportation that have adopted policies or executive orders and designed manuals/guides involving Complete Streets. Currently 12 states with no statewide Complete Streets policy have at least one municipality with a Complete Streets ordinance. Only three states (DE, HI and VT) with a Complete Streets state policy have no local governments with their own policy. Two states (ND and WY) have no state or local government Complete Streets policy. Currently no state preempts local governments from adopting a Complete Street policy.

KEY FINDINGS

- ◆ The state and at least one municipality has a Complete Streets policy (33 states and DC)
- ◆ The state has no Complete Streets policy, but at least one municipality does (12 states)
- ◆ The state has a Complete Streets policy, but no municipalities does (3 states)
- ◆ The state has no state or local Complete Streets policy (2 states)



CASE STUDY:

Florida’s Complete Street Law and Implementation

The State of Florida became the second state to adopt a Complete Streets law in 1984.⁴⁴ This early Complete Streets law required all road construction projects to consider bicyclists and pedestrians, saving more than 3,500 lives over 29 years.⁴⁵ In 2014, the Florida Department of Transportation (FDOT) updated their Complete Streets policy acknowledging that each construction project is unique and requires its own Complete Streets solution. FDOT incorporated the policy into its construction project planning manual for use at the local and state levels.

Today, this policy has resulted in a:

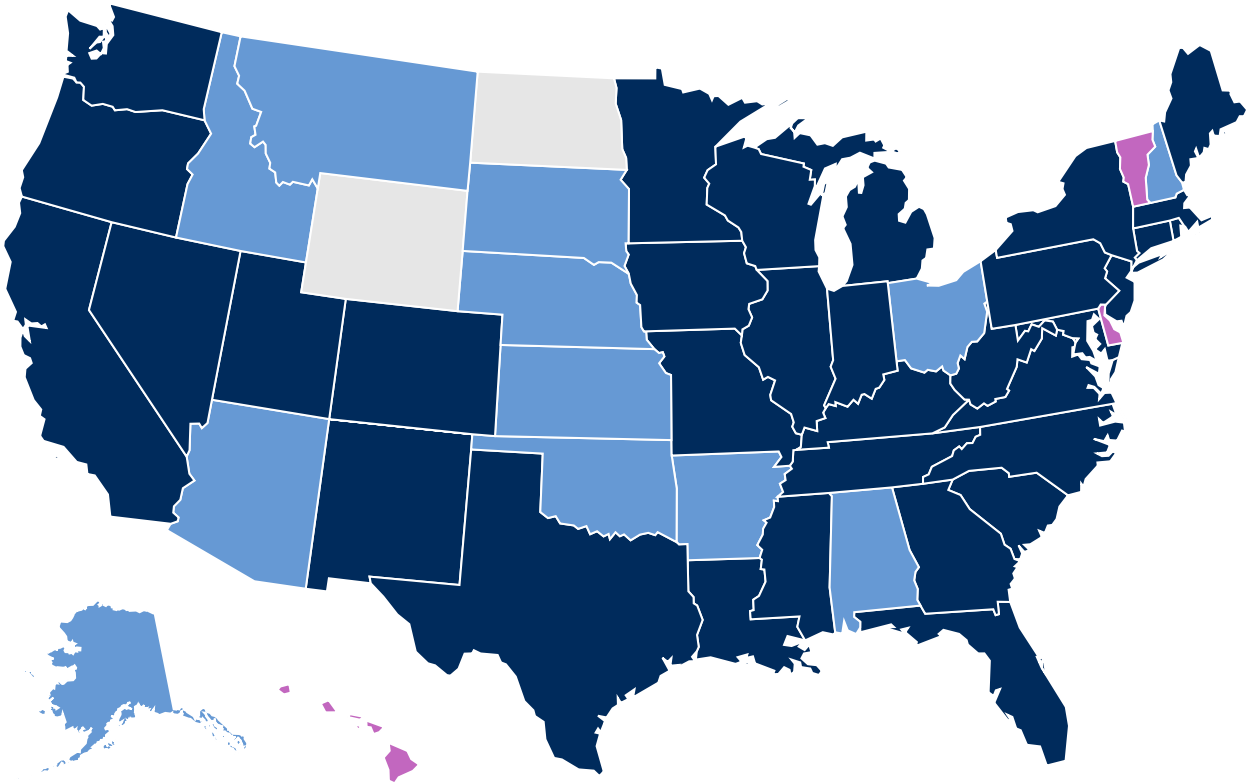
- ◆ [State Complete Streets website](#)
- ◆ [District-level complete streets coordinators](#)
- ◆ [Complete Streets project map](#)
- ◆ [Design manual](#)
- ◆ [Context classification to support local land use context and characteristics](#)

FDOT designed each of these resources to provide additional context and flexibility for local leaders. FDOT’s 2018 report found that 51 cities in Florida had Complete Streets policies. As of 2022, more than 58 cities have adopted a Complete Streets policies, nearly a 14 percent increase in four years.

Figure 4: Local Authority to Administer a Complete Streets Policy

Legend

- ◆ Only state government has Complete Streets policy
- ◆ Only local government has Complete Streets policy
- ◆ No state or local government has a Complete Streets policy
- ◆ State and local government have a Complete Streets policy





Financing and Funding Options

With once-in-a-lifetime federal investments, municipalities have access to additional infrastructure funding opportunities. However, because of historic state preemptions, some local governments may not be equipped to execute improvements across a variety of these infrastructure needs. Additionally, many cities, towns and villages do not have the administrative infrastructure necessary to apply for or administer federal grants due to their size and capacity.

Current state policies promoting additional local financing options help to close financing gaps, crucially expanding municipalities' ability to respond to infrastructure needs. For instance, programs like the federally mandated Drinking Water State Revolving Fund and Clean Water State Revolving Fund (SRFs) finance specific water infrastructure projects and promote proportional investments from federal, state and local participants. It is essential for states to allow local authority over financing alternatives, such as local tax options or entry into State Infrastructure Banks (SIBs) supported by state and federal investments.⁴⁶

The Local Infrastructure Hub

NLC and Bloomberg Philanthropies have partnered to launch [The Local Infrastructure Hub](#) (the “Hub”), which offers free training and technical assistance to municipalities. As a national resource, the Hub helps small and mid-size local governments develop strong applications for key federal grants under BIL. By bringing together nonprofits, municipal networks, academics and policy experts, the Hub allows participating local leaders to submit more competitive federal grant applications now and in the future.

This section highlights several options for municipalities to finance or receive funds that support the development of local infrastructure projects. State and local financing options like SIBs provide local governments with access to short-term loans or long-term debt that covers all or some of an infrastructure project’s costs. While these mechanisms provide financing opportunities for local governments able to pay back their loans, federal funding opportunities like BIL, IRA and ARPA provide localities with direct funding to address mounting infrastructure concerns without the additional fiscal burden of debt repayment.

NLC researchers found that less than half of the states and DC expand opportunities for SIBs (Figure 5). However, 20 states have no precedent for SIBs while nine have inactive SIBs.



POLICY OPTION:
State Infrastructure Banks

SIBs, or I-Banks, are self-sustaining lending institutions with revolving funds dedicated to local infrastructure improvements.⁴⁷ The National Highway Safety Act of 1995 (NHS) and the Transportation Equity Act of 1998 (TEA-21) first authorized SIBs. The NHS pilot allowed no more than 10 SIBs initially, but the number of states investing in I-Banks has continued to grow over time.⁴⁸

SIBs serve as a supplement to traditional transportation infrastructure grants by providing states and localities with more financing opportunities.⁴⁹ Participating states may enter into cooperative agreements with the FHWA and the Federal Transit Administration (FTA) to establish the basic requirements of a SIB.⁵⁰ Once an agreement is reached, a combination of federal and state funds capitalize the SIB and state agencies administer them.⁵¹ As political subdivisions of states, local governments may apply for funds so long as their projects meet the mandated eligible use criteria. As borrowers repay their loan balances, the SIB can begin the loan process for other eligible use projects.

SIB funding assistance may support short-term construction loans or long-term debt financing that covers all or some of a project's costs, typically with flexible loan terms and at or below market interest rates.⁵² SIBs may also offer credit enhancement services that extend lines of credit, provide guarantees, and help with finance purchases and lease agreements for transit projects.⁵³

SIBs may play a greater role in the future with the passage of BIL. Though all states have SRFs for water-related projects, the additional federal aid through SIBs scales up municipal administrative capacity. States with active SIBs may be better equipped to administer these federal funds because of administrative capacities already in place.⁵⁴ Federal requirements for SIB authorization may also impact states' ability to create and utilize funds.⁵⁵

Each state's legislature is responsible for determining the appropriate or eligible uses of SIB financing. Of the 33 SIB-authorized states, 21 allow only transportation-related infrastructure project financing. Comparatively, SRFs for drinking water resemble SIBs; however, capitalization of SRFs comes from annual federal appropriations alongside mandated state matching funds making them ubiquitous; thus, researchers excluded SRFs from this report.⁵⁶

Municipal leaders can also take advantage of alternative financing options provided by state banks. Unlike SIBs, state banks offer traditionally structured loans to government entities and private citizens seeking funding for specific projects. The Bank of North Dakota is one example of this financing option.⁵⁷

SIBs can play a significant role in promoting community development and improving public safety through cost-effective infrastructure improvements. As such, local governments should utilize SIB-covered loans equitably by ensuring minority and women-owned businesses have fair opportunities to bid for site management. Additionally, SIBs may promote equity across a state by implementing special loan repayment programs for localities with smaller populations, in rural areas or with lower revenue generation to ensure infrastructure improvement financing is accessible and affordable to all communities.



National Landscape

Since the inception of the USDOT’s SIB program in 1995, many states have authorized these banks for various infrastructure needs. NLC’s 2016 report found that 27 states had authorized SIBs, and 22 of these states were actively servicing loans.⁵⁸ Active SIBs are those capitalized by state and federal dollars with active infrastructure loans in use.

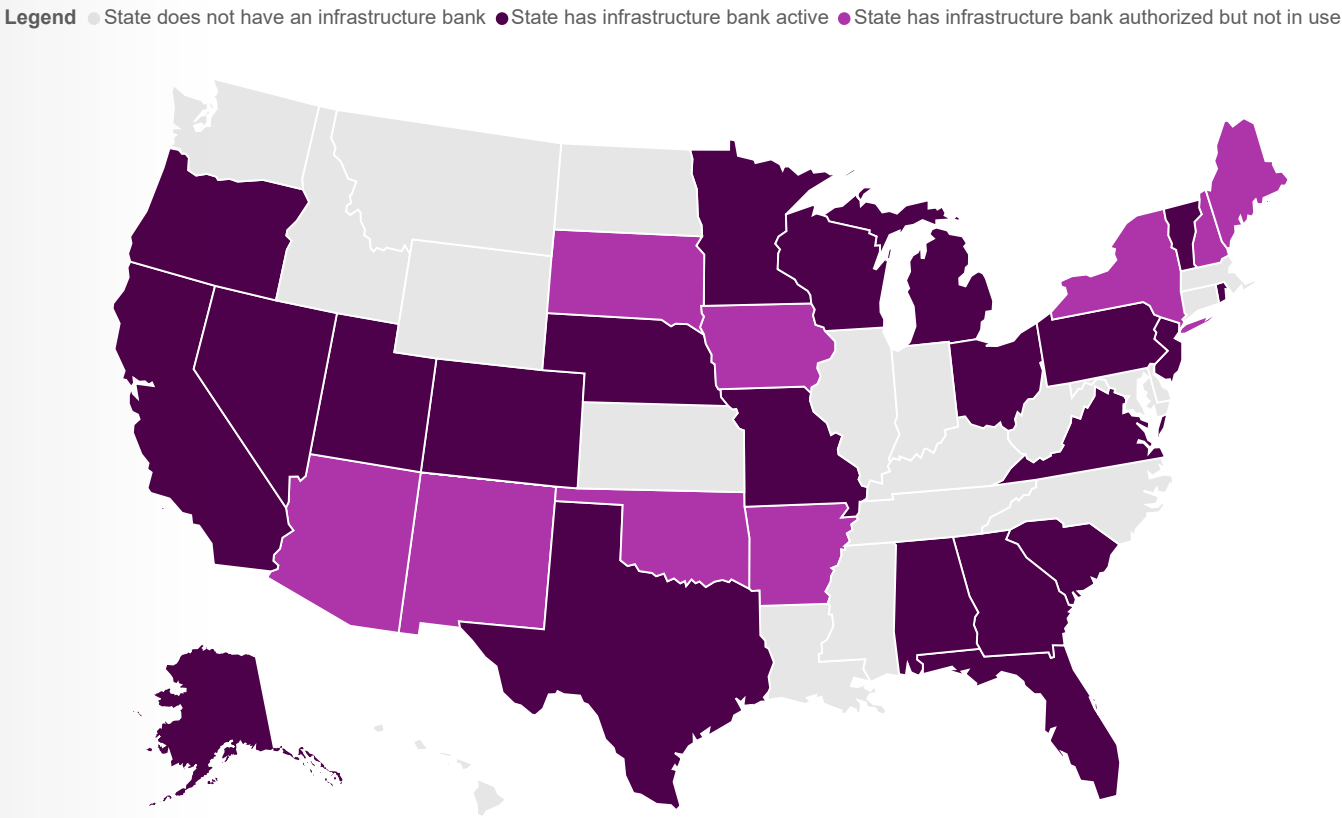
Of states with authorized SIBs, 22 are active and six states (NE, NV, NH, NJ, OK and OR) having successfully introduced and passed legislation authorizing the creation of SIBs since 2016. Additional changes since 2016 include Connecticut introducing SIB-authorizing legislation that has yet to pass into law and Arizona’s legally authorizing SIB has become inactive.⁵⁹

Among states without operational SIBs, legislatures have floated proposals in support of SIB authorization and/or capitalization. Such proposals have found traction in states like New York and Oklahoma, while state legislators in Delaware and Virginia have introduced state bills pushing for federal legislation establishing a national infrastructure bank.^{60, 61, 62, 63}

KEY FINDINGS

- ◆ State has an active infrastructure bank (22 states)
- ◆ State has not authorized an infrastructure bank (19 states and DC)
- ◆ State authorized an infrastructure bank, but it is not active (9 states)
- ◆ 42 percent of SIBs only consider transportation projects as eligible for financing

Figure 5: Local Access to State Infrastructure Banks



CASE STUDY:

New Jersey's Infrastructure Bank

The New Jersey Infrastructure Bank (NJ-I Bank) was originally created through the New Jersey Transportation Trust Fund Act of 1984 and Wastewater Treatment Trust Act in 1985.⁶⁴ After many amendments, the NJ-I Bank evolved into the New Jersey Environmental Infrastructure Trust (NJEIT) and the New Jersey Transportation Infrastructure Bank (NJITB), both unique financial entities are housed under the NJ-I Bank.

State law authorizes New Jersey's I-Bank to issue revenue bonds and loans for transportation and environment-related state infrastructure projects so long as they satisfy the eligible use requirements.⁶⁵ A 10-member board of directors and an executive director govern NJ-I Bank by managing internal operations and writing bylaws pursuant to the state's statutes.⁶⁶

NJTIB's current programs and financial tools include a Rural Project Initiative (RPI) and two loan types: short-term and long-term loans.⁶⁷ In 2022, NJTIB's RPI offered support to 21 counties with fixed interest, long-term loans for up to 35 years and "80% of the project's eligible costs at approximately 50% of the US Treasury Rate."⁶⁸

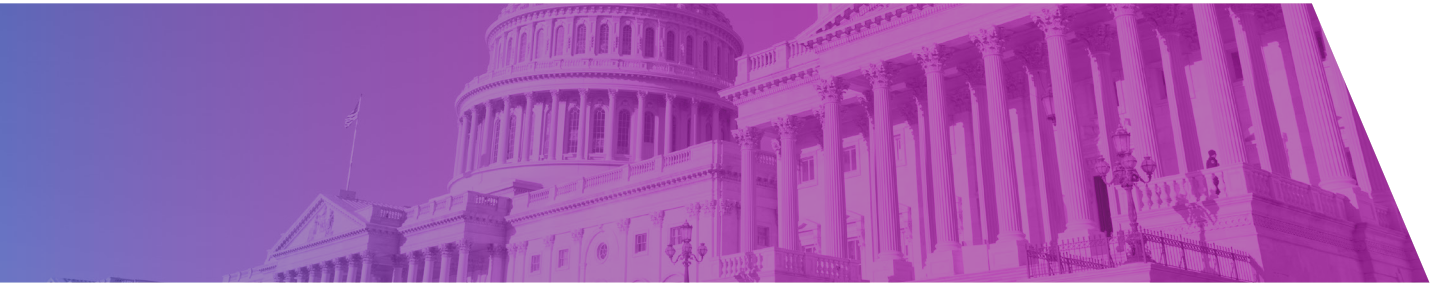
NJEIT ensures sustainable economic development by financing water quality infrastructure projects to enhance resources, maintain drinking water safety and protect public health.⁶⁹ Eligible use projects include clean water, drinking water, green infrastructure, land acquisition, remediation, redevelopment, multi-modal, bridges and road resurfacing projects, as well as brownfield cleanup, runoff control and equipment purchasing agreements.⁷⁰

As a coastal state, the NJEIT also helps support disaster relief emergency efforts and provides financing options for municipal governments looking to fortify existing infrastructure.

In 2017, the state passed legislation requiring all local governments working with the I-Bank to finance a \$1 million or greater environmental infrastructure project, or a project component, to submit a finance cost estimate to the I-Bank. Additionally, even if the I-Bank is not financing the project, the local government must submit an I-Bank finance cost estimate along with the supplemental debt statement to the Division of Local Government Services.⁷¹ According to the New Jersey State League of Municipalities (NJLM), this additional process can delay a project during the bond ordinance step of project approval. Because of these additional bureaucratic measures, NJLM opposed the legislation and testified that local government participation

would increase with additional program promotion to local governments. Partnering with organizations like NJLM to share information about the I-Bank with their members could be one approach to increase local government participation.

The NJ-I Bank also offers and participates in public, private and nonprofit partnerships. For example, NJ-I Bank operates a bond program to cultivate investment from prospective private sponsors. In early 2022, the bank co-sponsored an event for partners to discuss BIL and what it would deliver to the state.⁷² Agency heads from the New Jersey Department of Transportation, Department of Environmental Protection and Board of Public Utilities all attended, encouraging municipal and county leaders to take advantage of the NJ-I Bank's financing program to cover costs of high-priority projects directly or partially.⁷³



POLICY OPTION:
Federal Funding
American Rescue Plan Act

Since 2020, cities, towns and villages have faced extraordinary challenges including the COVID-19 pandemic, rising inflation, a looming recession and increasing infrastructure needs.⁷⁴ ARPA provided local governments a few lifelines with which to meet their recovery needs, including the Capital Projects Fund and the State and Local Fiscal Recovery Fund (SLFRF). ARPA’s Capital Projects Fund allocated \$10 billion to states, territories and Tribes to cover capital projects like broadband infrastructure installation.⁷⁵ Through SLFRF, municipalities and states have tremendous flexibility to use their funds to meet regional and local infrastructure needs. This includes projects that focus on sewer and water, public space, roadways and bridges, green infrastructure, public transportation and cybersecurity.⁷⁶

Dallas, TX, for instance, plans to allocate nearly \$1.17 million in SLFRF funds to improve the city’s solar equipment and battery storage. **Minneapolis, MN**, will contribute \$50,000 from its SLFRF allocation to develop Open Streets Minneapolis and make streets for people first.⁷⁷ As municipalities and states strategize how to allocate their remaining ARPA dollars, they can collaborate with residents and regional leaders to craft comprehensive infrastructure measures that address longstanding inequities and build lasting projects that would not be feasible without BIL and IRA investments.

State BIL Funds

The Data to Decisions (D2D) department in the US General Services Administration (GSA) developed a dashboard to showcase the amount of BIL funds each state received. The [D2D dashboard](#) captures not only the amount each state received from BIL but also the types of projects receiving funds. As localities determine the infrastructure projects they plan to develop, municipal leaders should partner with their states to strengthen the resources BIL provides them.

Bipartisan Infrastructure Law

Through BIL, the Biden Administration tasked states and territories with building additional administrative capacities to support project development and provide grant information to municipalities. States have responded by appointing state infrastructure coordinators and developing state BIL resource pages to assist local leaders.

Currently, 53 states and territories have appointed state infrastructure coordinators. Each coordinator will serve as the main point of contact between the White House Infrastructure Implementation Team and the state.⁷⁸ These coordinators will also support municipalities as they help direct funds to localities while answering questions about the programs.

Additionally, states have developed their own BIL landing pages to assist with project tracking and grant opportunities. Several states even provide information specific to municipalities interested in applying for grants. The development of these digital services can support interested localities by increasing transparency and streamlining state-specific BIL information access.

Inflation Reduction Act

IRA includes several opportunities for state and local governments to receive funding for various projects and programs. IRA alters the federal clean energy tax credit program to enable municipalities to better utilize the program.⁷⁹ Several other funding opportunities are specific to clean energy projects, including a focus on clean commercial vehicles, renewable energy and direct pay protection from sequestration.⁸⁰ Other funding is available for projects that:⁸¹

- | | |
|---|---|
| ◆ Lower energy bills and costs for efficiency upgrades | ◆ Support climate-ready agriculture, forestation and resilience |
| ◆ Create jobs through domestic manufacturing and clean energy procurement | ◆ Advance clean air through clean transportation |



Recommendations

The tools available to municipalities to address infrastructure needs are not only determined by local conditions, but also by the authorities and resources granted to municipalities by their states. As local leaders continue to address aging infrastructure, municipalities and states must rethink how they work collaboratively to meet local needs. Our assessment of SIBs, EVSEs, Complete Streets and municipal utilities through PPAs and CCAs policies finds that:

- ◆ Municipalities within Virginia, Massachusetts and Utah have access to the most opportunities to expand local control across these policies, especially as it relates to SIBs and Complete Streets policies, and do not experience preemption in any of these policies..
- ◆ Municipalities within Arizona, Arkansas and Oklahoma have access to participate in SIBs, PPAs and Complete Streets policies.
- ◆ Municipalities within Wisconsin experience the most preemption related to EVSEs and PPAs from their state government; however, Arizona, California, Delaware, DC, Florida, Kansas, Louisiana, Michigan, Montana, New Jersey, North Carolina and South Carolina preempt or limit at least one of the policies reviewed in this report.
- ◆ Municipalities within North Dakota, Wyoming, Idaho, Mississippi and Tennessee have no precedent as it relates to SIBs, EVSEs and PPAs.

Recent federal legislation provides local governments the opportunity to make needed infrastructure investments to support safe, healthy, equitable and thriving communities. Municipalities and states can take several steps to achieve a careful balance of local flexibility and collaboration to meet mutual infrastructure goals, including:

◆ **Develop policy interventions with equity in the forefront**

State and local leaders must imbed equity within policies to allow all residents access to safe and functioning infrastructure. Because of BIL and ARPA’s focus on equitable development, local leaders can use information in the law to guide their project planning and implementation.

◆ **Increase opportunities for local authority**

Although local leaders and residents across the country face different infrastructure needs, the time to act and address these issues is now. With the additional federal funding opportunities currently available, states should not preempt, hinder or deter localities seeking these funds. State preemptions that restrict creative local solutions can further exacerbate infrastructure issues and bring harm to residents.

◆ Build technical capacity at the local level

For many localities across the US, receiving funds from ARPA and Coronavirus Aid, Relief, and Economic Security Act (CARES) was their first experience in administering federal aid. For these local governments, especially ones with smaller administrative capacities, they wanted these funds to support their residents but needed additional technical assistance to fill potential capacity gaps. To better support localities in accessing funds in the future, states can create programs that provide more training in administrative and technical assistance to local leaders.

◆ Consider other funding streams outside of BIL, ARPA and IRA

Federal funding streams are limited as deadlines pass and application numbers increase. Looking for external funding or expanding tax sources may help localities increase their financial capacity for infrastructure projects. State financing opportunities like I-Banks allow local governments more flexibility to address larger infrastructure projects that may require additional funding.

◆ Determine areas for collaboration with local, regional and state partners

There are many stakeholders engaged in the infrastructure space. With a limited number of grants available, collaborating with partners experiencing similar issues or that share a common goal creates opportunities to combine resources. Collaboration can take the form of sharing materials, applying for joint grants, completing a cross-jurisdictional project and more. When considering external partners and stakeholders, local leaders can work with organizations from various levels of engagement, whether at the local, regional or state scale, or even by developing public-private partnerships.

◆ Incorporate climate change considerations into decision-making, project planning and construction

Localities across the nation are already experiencing the effects of climate change. Including climate change considerations and analyses into each infrastructure project can improve the project's longevity and build community resilience against future extreme weather events and other climate change impacts. This also provides an important opportunity to address equity in communities as people with disabilities, those from economically disadvantaged households, the elderly, BIPOC, and other vulnerable and underrepresented populations are typically the most affected by pollution and least able to prepare in advance or recover from climate change and extreme weather events.

Both municipalities and states have a momentous opportunity to leverage recent federal investments to address local infrastructure needs. However, in the face of state preemptions, some localities may feel limited in their ability to take advantage of these once-in-a-lifetime funding opportunities. Because these opportunities to address long-term infrastructure issues are limited, local governments need creative solutions to improve infrastructure for their residents. Allowing local leaders the freedom to directly address their current and future residents' infrastructure needs can improve local and national outcomes, especially when confronting the nation's C- infrastructure grade. State and local partnerships are valuable tools that can improve government relations while addressing infrastructure concerns facing entire regions.

Appendices

Appendix A: National Overview Summary

STATE	MUNICIPAL UTILITIES	ELECTRIC VEHICLE SUPPLY	COMPLETE STREETS	STATE INFRASTRUCTURE BANKS
Alabama	★	★	●	▲
Alaska	●	★	●	▲
Arizona	●	◆	●	●
Arkansas	●	★	●	●
California	▲	◆	▲	▲
Colorado	●	★	▲	▲
Connecticut	●	★	▲	★
Delaware	●	◆	●	★
District of Columbia	●	◆	▲	★
Florida	◆	▲	▲	▲
Georgia	●	★	▲	▲
Hawaii	●	★	●	★
Idaho	★	★	●	★
Illinois	▲	★	▲	★
Indiana	●	★	▲	★
Iowa	●	★	▲	●
Kansas	◆	★	●	★
Kentucky	●	★	▲	★
Louisiana	★	◆	▲	★
Maine	●	★	▲	●
Maryland	▲	★	▲	★
Massachusetts	▲	▲	▲	★
Michigan	◆	★	▲	▲
Minnesota	★	★	▲	▲
Mississippi	★	★	▲	★
Missouri	●	★	▲	▲
Montana	★	◆	●	★
Nebraska	★	★	●	▲
Nevada	●	★	▲	▲
New Hampshire	▲	★	●	●
New Jersey	▲	◆	▲	▲
New Mexico	●	★	▲	●
New York	▲	★	▲	●
North Carolina	◆	★	▲	★
North Dakota	★	★	★	★
Ohio	▲	★	●	▲
Oklahoma	●	★	●	●
Oregon	●	★	▲	▲
Pennsylvania	●	★	▲	▲
Rhode Island	▲	★	▲	▲
South Carolina	◆	★	▲	▲
South Dakota	★	★	●	●
Tennessee	★	★	▲	★
Texas	●	★	▲	▲
Utah	●	▲	▲	▲
Vermont	●	★	●	▲
Virginia	▲	▲	▲	▲
Washington	★		▲	★
West Virginia	●	★	▲	★
Wisconsin	◆	◆	▲	▲
Wyoming	★	★	★	★

◆ Preempts

● Expands

▲ Allows

★ No Precedent

Appendix B: 2016 and 2023 Report Topics Table

TOPIC	2016 REPORT	2023 REPORT
Complete Streets		X
Electric Vehicle Infrastructure		X
Local Fuel Option Tax	X	
Local Option Motor Vehicle Registration Fee	X	
Local Option Sales Tax	X	
Public Private Partnerships	X	
Power Purchase Agreements		X
State Infrastructure Banks	X	X

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