

Association of Metropolitan Planning Organizations Fixing America's Surface Transportation (FAST) Act

General Overview

Total authorizations (Highway Trust Fund, Contract Authority plus General Funds from the Treasury) over the 5-year life of the FAST Act are approximately \$305 billion.

\$281 billion in Highway Trust Fund (HTF) Contract Authority from the HTF (highway and transit accounts) is provided. \$225.2 billion for highways, \$48.7 billion for mass transit, and \$7.0 billion for highway and motor carrier safety.

\$24 billion in General Funds of the US Treasury is provided. The conference agreement also authorizes appropriations from the General Fund of the Treasury in an amount of \$12.2 billion over five years for mass transit and \$10.4 billion over five years for Amtrak and other passenger rail programs. Almost \$1 billion is provided to the National Traffic Highway Safety Administration for vehicle safety activities. These authorizations are subject to the annual appropriations process and may or may not materialize.

\$281 billion + \$24 billion = \$305 billion in total funding authorizations are provided under the FAST Act.

Positive Train Control - The bill provides \$199 million in contract authority from the Mass Transit Account of the HTF in FY 2017 for positive train control implementation grants and is subject to the obligation limitation for that year in 2017. In order to make room for the PTC grants, transit formula grants will have to be decreased by \$199 million in FY17.

The conference agreement will provide an immediate 5% increase to highways in 2016 (\$2.1 billion over 2015) and an 8% increase to transit in 2016 (\$753 million over 2015). Highway spending would grow by 2.1 to 2.4 percent per year after 2016, while mass transit spending would grow at about 2.1 percent per year.

Rescission - In 2020, the last year of the bill, there is a \$7,569,000,000 rescission of unobligated balances of contract authority of the States. The FAST Act spread the rescission among the States based on a State percent share of the total amount of contract authority provided to all states. Sub-allocated Surface Transportation Block Grant Program (STBGP) funds are not subject to the rescission. As a result, the net amount of HTF contract authority provided in the bill is actually \$273.5 billion.

Paying the bill - the conference report transfers \$70 billion from the General Fund to the Trust Fund immediately - \$51.9 billion to the Highway Account and \$18.1 billion to the Mass Transit Account.

FUNDING LEVELS

Federal-Aid Highways

2015	2016	2017	2018	2019	2020
\$37,798,000,000	\$39,727,500,000	\$40,547,805,000	\$41,424,020,075	\$42,358,903,696	\$43,373,294,311

Transportation Infrastructure Finance and Innovation Act (TIFIA)

2015	2016	2017	2018	2019	2020
\$1,000,000,000	\$275,000,000	\$275,000,000	\$285,000,000	\$300,000,000	\$300,000,000

Nationally Significant Freight and Highway Projects **(New)**

2015	2016	2017	2018	2019	2020
NA	\$800,000,000	\$850,000,000	\$900,000,000	\$950,000,000	\$1,000,000,000

Obligation Ceiling

2015	2016	2017	2018	2019	2020
\$42,256,000,000	\$42,361,000,000	\$43,266,100,000	\$44,234,212,000	\$45,268,596,000	\$46,365,092,000

Establishes a **new National Highway Freight Program** that is apportioned to States

2015	2016	2017	2018	2019	2020
NA	\$1,150,000,000	\$1,100,000,000	\$1,200,000,000	\$1,350,000,000	\$1,500,000,000

- Amounts above are total program funds
- Each State receives a share of the total based on the State's percentage to total apportionments
- The Secretary shall use part of the State's amounts to carry out metropolitan planning

Transit Formula Grants

2015	2016	2017	2018	2019	2020
\$8,585,000,000	\$9,347,604,639	\$9,534,706,043	\$9,733,353,407	\$9,939,380,030	\$10,150,348,462

Capital Investment Grants (New Starts – Authorizations from the General Fund)

2015	2016	2017	2018	2019	2020
\$1,907,000,000	\$2,301,785,760	\$2,301,785,760	\$2,301,785,760	\$2,301,785,760	\$2,301,785,760

Metropolitan transportation planning funds are apportioned after the amounts are set-aside for the new freight program

PL Funds

2015	2016	2017	2018	2019	2020
\$313,600,000	\$329,300,000	\$336,900,000	\$343,000,000	\$350,400,000	\$358,500,000

Each State receives a base apportionment and then receives supplemental apportionments under National Highway Performance Program (2019, 2020) and STBGP (2016,2017,2018,2019,2020)

HIGHWAY PROGRAMS

Sec. 1105 Nationally Significant Freight and Highway Projects **(NEW)**

- Competitive grants through USDOT
- Grants must be at least \$25 million
- Eligible applicants include – States, MPOs over 200K in population, local governments, political subdivisions of a State or local government, tribal governments, public authority with a transportation function, federal land management agencies jointly with States
- Eligible projects include – highway freight projects on the NHS, highway or bridge on the NHS (including adding capacity in the Interstate), freight projects (intermodal or freight rail, ports – must be a surface transportation infrastructure project necessary to facilitate direct intermodal interchange, transfer, or access into or out of the facility), railway-highway grade crossings or grade separation projects
- Project cost must equal or exceed the lesser of \$100 million or 30% of a State's apportionment (in more than 1 State, 50% of apportionments of the participating State with the largest apportionment)
- No more than \$500 million total in the aggregate from 2016-2020 may be used for freight rail, ports, intermodal facility projects (there are additional limitations on the use of funds for these types of projects)
- 10% of the funds shall be reserved for projects that do not meet the cost thresholds – grant must be at least \$5 million
- Eligible costs include but are not limited to – planning, feasibility analysis, environmental review, preliminary engineering, design, construction, and other costs
- Project requirements (Secretary makes the determination) – economic, mobility, safety benefits, be cost-effective, accomplish 1 or more performance goals under law, stable non-federal funding sources, project cannot be completed without federal assistance, project is reasonably expected to begin construction within 18 months after funds are obligated (additional considerations are required)
- 25% of the funds shall be reserved for rural projects
- Federal share may not exceed 60% of costs, but other federal sources may be used to satisfy the non-federal share – total federal assistance is capped at 80% of total project costs
- Grants may be used to pay subsidy and administrative costs of TIFIA
- The Secretary must notify the Congressional infrastructure committees 60 days before awarding a grant – Congress may disapprove funding by enacting a joint resolution before the 60 days expire

Sec. 1106 National Highway Performance Program

- Funds may be used to pay subsidy and administrative costs of TIFIA
- Funds may be used for non-NHS bridges on a federal-aid highway only if a State ensures that the Interstates (excluding bridges) and its NHS bridges are meeting minimum condition levels
- Funds may be used for the installation of vehicle-to-infrastructure communication equipment

Sec. 1108 Railway-Highway Grade Crossings

- Provides increase in funding for elimination of hazards and the installation of protective devices at railway-highway crossings
- \$225,000,000 in 2016 and increase \$5 million per year through 2020
- Half the funding must be set-aside for the installation of protective devices

Sec. 1109 Surface Transportation Block Grant Program

- Funds may be used to develop and implement state asset management plans for the NHS and performance based management program for other public roads
- Funds may be used for the installation of vehicle-to-infrastructure communication equipment
- Increases amounts sub allocated by population to MPOs and other areas of the State – 51% in 2016 increase 1% each year to 55% in 2020
- Reserves \$835 million in 2016 and 2017, and \$850 million in 2018, 19, and 20 for transportation alternatives projects – State amounts are determined using a formula of what a State was required to spend on transportation enhancements in 2009
 - TAP funds are allocated 50/50 between States and MPOs
 - Funds can be obligated to TAP projects as in the law before the FAST Act was enacted
 - States are required to obligate funds to recreational trails unless the Governor opts out
 - Areas over 200,000 in population may use up to 50% of the reserved funds for any purpose under the STBGP
- TAP is repealed from law

Sec. 1111 Bundling of Bridge Projects

- States may bundle 2 or more similar eligible bridge projects and award a single contract for engineering and design or construction – a bundled project may be listed as one project on the MPO TIP or State STIP

Sec. 1114 Congestion Mitigation and Air Quality

- Funds may be used to purchase diesel retrofits for port related freight operations

- Funds may be used for the installation of vehicle-to-infrastructure communication equipment
- For non-attainment or maintenance areas - provides exceptions to the requirement to prioritize funds to projects for PM 2.5 in States with a population density of 80 or fewer persons per square mile of land area based on the most recent decennial census if certain conditions are met
- Specifies that the CMAQ performance plans for MPOs over 1 million in population must include a description of progress made in achieving the “air quality and traffic congestion” performance targets described in law

Sec. 1116 National Highway Freight Program (NEW)

- New Section 167 in title 23 of the US Code
- Establishes a national policy and goals
- The FHWA Administrator shall establish a National Highway Freight Network consisting of – the 41,518 mile network establish in MAP-21, critical rural freight corridors, critical urban freight corridors, and portions of the Interstate system not included in the 41,518 mile primary highway freight system
- Redesignation shall occur every 5 years but caps the increase in mileage to not more than 3% of the total system; establishes a process for redesignation
- Establishes criteria to designate critical rural and urban corridors
 - MPOs in areas over 500,000 in population may designate urban corridors in consultation with the State
 - States designate urban corridors in areas under 500,000 in consultation with MPOs
 - Establishes requirements for urban designations
- States may use funding to improve freight mobility on the network; the Secretary shall calculate each State’s proportion of the primary highway freight system based on mileage in a State; if a State’s proportion is greater than or equal to 2% the State may obligate funds on the primary highway freight system, critical rural and urban corridors; in State with less than 2% of the miles the State may obligate funds for any component of the National Highway Freight Network
- States are required to develop a freight plan within 2 years or lose the ability to obligate funds
- Defines project eligibility and caps at 10% what a State can use on intermodal or rail projects
- Further defines uses of the funds such as development phase activities, preliminary engineering and design, other preconstruction activities, construction, ITS, reduction of environmental impacts and many other activities

Sec. 1201 Metropolitan Transportation Planning

- TIP and Plan also must now provide for the development and integrated management of “intermodal facilities that support intercity transportation,

including intercity buses and intercity bus facilities, and commuter vanpool providers.”

- Representatives or officials of an MPO shall be determined by MPO bylaws or enabling statutes; representative of public transportation may also serve as a representative of a local municipality; authority of the transit representative shall be commensurate with other officials
- MPOs are encouraged to consult with State agencies that plan for tourism and, natural disaster risk reduction
- New planning factors - system resiliency and reliability and reduce or mitigate storm-water impacts on surface transportation
- Plans shall identify public transportation facilities and intercity bus facilities
- The plan should include strategies to reduce vulnerability due to natural disasters
- Interested parties also include public ports, intercity bus operators, and commuter vanpool providers
- Adds new optional Congestion Management Plan – MPO in a TMA may develop a plan that includes projects and strategies that shall— (i) develop regional goals to reduce vehicle miles traveled during peak commuting hours and improve transportation connections between areas with high job concentration and areas with high concentrations of low-income households

Subtitle C – Acceleration of Project Delivery

- Provides further exemptions for common post-1945 concrete or steel bridges and culverts
- Redefines a multimodal project and project – adds consideration of federal funding or financing
- Establishes requirement for programmatic review
- Allows an operating administration of USDOT to be the lead agency
- Expands the role of the lead agency to consider and respond to comments from participating agencies with special expertise
- Sets a 45-day deadline from the date of publication of a notice of intent to prepare an EIS or EA for the lead agency to identify participating agencies
- To the extent practicable all Federal permits and review for a project shall rely on a single document prepared under NEPA; the lead agency shall develop such a document to satisfy requirements for any Federal approval or other Federal action required for the project; requires participating agencies to cooperate and provide timely information to the lead agency
- Inserts language for the project sponsor to notify the Secretary about any additional information the sponsor considers to be important to the project; the Secretary has 45 days (after receiving a notification from the sponsor to initiate a review) to provide a written response to a project sponsor in the decision to proceed, decline, or request additional information; sets additional deadlines and processes

- Limits comments of participating agencies to subject matter in the agencies jurisdiction
- Participation agencies that decline to participate in the purpose and need and alternatives must comply with the review schedule
- Lead agency may eliminate from detailed consideration an alternative in an EIS if conditions under MPO or State planning have been met
- Lists definitions for environmental review process, lead agency, planning product, project, project sponsor, and relevant agency
- Lead or cooperating agencies may adopt or incorporate by reference and use a planning product in NEPA proceedings; they must identify the agencies that participated in the products development; they may use the entire planning product or portions of the product
- Federal agencies responsible for environmental reviews, permits, or approvals must now give substantial weight to programmatic mitigation plans versus “may use”; and adds other Federal environmental laws
- The Secretary shall provide tech assistance, training or other support to States that want to assume the responsibility of designating certain activities categorical exclusions from under an EA or EIS, developing a MOU; or corrective actions
- Establishes a program to eliminate duplication of environmental reviews and approvals under State laws and NEPA for States that have assumed responsibilities of the Secretary under the Surface Transportation Project Delivery program
- Projects with limited federal assistance designated as a CE are indexed to CPI retroactively to 2012 (Sec 1317 of MAP-21)
- Inserts additional language to allow States to assume the responsibilities of the Secretary during environmental reviews

Sec.1403 Additional Deposits into the HTF

- If additional funds are deposited into the HTF after FAST Act is enacted there is a process to create addition spending authority for both highway and transit programs

Sec 1404 Design Standards

- Changes “may take into account” to “shall consider” the natural environment, scenic, aesthetic, scenic and other design criteria, cost savings by using existing flexibility in current design guidance and regulations
- Permits local jurisdictions to use design standards different from the State’s under certain conditions

Sec.1405 Justification Reports for Access Points on the Interstate System

- Amends the provision on justification reports for access to the Interstate, to include new or modified freeway-to-crossroad interchanges inside a transportation management area

Sec 1408 Federal Share Payable

- Adds engineering or design approaches to innovative project delivery for 100% federal share; adds additional examples to the list of innovative methods

Sec. 1411 Tolling; HOV Facilities; Interstate Reconstruction and Rehabilitation

- Specifies that any public authority that allows public transportation vehicles to use HOV facilities must provide equal access for all public transportation vehicles and over-the-road-buses
- Allows greater tolling of HOV facilities
- MPOs must be consulted if tolls are placed on HOV lanes on an Interstate in its planning area
- Before a State can participate in the Interstate System Reconstruction and Rehabilitation Pilot program it must have approved enabling legislation. An application expires after 3 years if a complete application has not been submitted, NEPA is incomplete, and has not executed a toll agreement with the Secretary. One-year extensions may be approved. States currently in the program have one year to comply with new requirements

Title III – PUBLIC TRANSPORTATION

Planning Funds

2016	2017	2018	2019	2020
\$130,732,00	\$133,398,933	\$136,200,310	\$139,087,757	\$142,036,417

Sec.3004 Urbanized Area Formula Grants

- Provides an exception to the special rule permitting operating assistance in areas over 200,000 in population to allow two or more systems to allocate funds for operations, under a written agreement; allocation of funds does not have to based on vehicle revenue hours
- Facilities and equipment must be maintained in accordance with the asset management plan

Sec. 3005 Fixed Guideway Capital Investment Grants

- Strikes the requirement that corridor based BRT operate short headway bidirectional service for a substantial part of weekend days
- Amends definition of program of interrelated projects to include small starts projects
- Amends the definition of small starts to increase the federal assistance up to \$100 million and increase the total net capital costs to \$300 million
- Strikes an applicant’s requirement to develop information enabling the Secretary to make a finding of policies and land use patterns that promote public transportation

- Amends programs of interrelated projects to include new fixed guideway capital project or core capacity improvement during the engineering phase
- Amends project advancement to distinguish between small starts and new fixed guideway capital projects or core capacity improvement projects
- Amends the federal share of a full funding grant agreement for a new fixed guideway capital project to 60%
 - Defines where the remaining costs may come from
- Decrease the number of years funds may be available from 5 to 4 years
- Provides grants for joint public transportation and intercity passenger rail projects
- Adds a new expedited project delivery for capital investment grants pilot program with a 25% limitation on federal share

Sec. 3006 Enhanced Mobility of Seniors and Individuals with Disabilities

- Adds a State or local government entity that operates a public transportation service to the definition of recipient
- Adds a new best practices section to share amongst public transportation agencies
- Adds a pilot program for innovative coordinated access and mobility to assist in financing innovative projects for the transportation disadvantaged

Sec. 3006 Rural Area Formula Grants

- Sets apportionments for Indian reservations: \$5 million competitive, \$30 million by formula
- Includes new methods to pay for the remainder of net project costs
- Determines the allocation of grants to multiples providers on tribal land

Sec. 3007 Public Transportation Innovation

- The Secretary shall provide assistance for projects and activities to advance innovative public transportation R&D
- Directs the Secretary to select at least one facility to engage in research associated with low or no emission vehicle

Sec. 3011 General Provisions

- Grants or loans may not be used to pay incremental costs of art or non-functional landscaping
- Amends the Buy America waiver provision to include rolling stock prototypes under types of rolling stock procured; increases the percentage of costs of components and subcomponents produced in America compared to costs of all components and subcomponents when procuring rolling stock to receive a Buy America waiver; if the Secretary denies a Buy America waiver, the Secretary must issue written certification that the steel, iron, or manufactured goods are produced in America in a sufficient and reasonably available amount

Sec. 3015 State of Good Repair Grants

- Stipulates a grant for a capital project under this section is for 80 percent of the net project cost of the project

Sec. 3017 Grants for Buses and Bus Facilities

- Rewrites 5339, adds a definition section; the amount of funds for the national distribution of grant funds increased to \$90.5 million (each State will receive \$1.750 million)
- Under a pilot program for cost-effective capital investment allows recipients in a specific State to pool their formula funds to allow for the accommodation of larger scale procurements
- Reinstates the competitive grant program at USDOT

Competitive Grants

2016	2017	2018	2019	2020
\$268,000,000	\$283,600,000	\$301,514,000	\$322,059,980	\$344,044,179

Sec. 3028 Grants for PTC

- Authorizes \$199 million from the Mass Transit Account of the HTF for installation of positive train control; awarded competitively; 80 federal share: only recipients of funds under transit are eligible

Title XI – Rail

Funding Authorizations

Amtrak

2015	2016	2017	2018	2019	2020
\$1,390,000,000	\$1,450,000,000	\$1,500,000,000	\$1,600,000,000	\$1,700,000,000	\$1,800,000,000

Northeast Corridor (NEC)

2016	2017	2018	2019	2020
\$450,000,000	\$474,000,000	\$515,000,000	\$557,000,000	\$600,000,000

National Network (NN)

2016	2017	2018	2019	2020
\$1,000,000,000	\$1,026,000,000	\$1,085,000,000	\$1,143,000,000	\$1,200,000,000

Amtrak Reforms

- DOT and Amtrak to define a budget account structure to separate the Northeast Corridor and National Network into two distinct budget accounts
- Federal appropriations, commuter rail payments, and operating surplus of the NEC are to be reserved for the NEC account

- Federal appropriations, state payments, and any operating surplus of the NN are to be reserved for the NN account
- Amtrak is to submit profit and loss statements for each account
- Amtrak may transfer funds between accounts if they would not materially affect Amtrak’s ability to meet its goals and would not violate any grant agreements (subject to Congressional notification procedures)
- Amtrak shall apply to USDOT for release of the appropriations, and DOT has 30 days to complete a review and decide whether or not to approve the application
- Amtrak can modify rejected requests and there is a 15-day review period for modified requests; requires specific information in Amtrak’s grant requests
- Provides that, generally, appropriations shall be given to Amtrak 50 percent on October 1, 25 percent on January 1 and 25 percent on April 1 (but this may be changed if necessary)
- Requires Amtrak to submit a 5-year business line and asset plans by February 15 of each year to be “based on funding levels authorized or otherwise available to Amtrak in a fiscal year
- Requires USDOT to establish a State-Supported Route Committee to promote mutual cooperation and planning pertaining to Amtrak’s operation of state-supported routes

Sec. 11301 Intercity Passenger Rail

- New Grant Program – to assist in financing the cost of improving passenger and freight rail
 - Establishes eligible applicant which include Class II and III railroads
 - Establishes eligible projects which includes PTC, capital projects, highway-railway grade crossing (include quiet zones)
 - Establishes criteria and limits federal share to 80% but gives preference to projects that request 50% or less; 25% is set aside for rural areas
 - Funding is subject to annual appropriations

2016	2017	2018	2019	2020
\$98,000,000	\$190,000,000	\$230,000,000	\$255,000,000	\$330,000,000

Sec. 11302 Federal-State Partnership for State of Good Repair

- New Grant Program – grants to fund capital projects that reduce the state of good repair backlog of qualified railroad assets
 - Establishes eligible applicants including States, Amtrak, political subdivisions
 - Defines capital project, qualified railroad asset
 - Establishes eligible projects and selection criteria (preference is given to projects Amtrak is not the sole recipient, and projects requesting federal match less than 50%)
 - Federal share capped at 80%

2016	2017	2018	2019	2020
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\$82,000,000	\$140,000,000	\$1750,000,000	\$300,000,000	\$300,000,000
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Sec. 1103 Restoration and Enhancement Grants

- New Grant program – grants for operating assistance for initiating, restoring, or enhancing intercity passenger rail transportation
 - \$20 million in each year
 - Defines applicant; applicant must submit a capital and mobilization plan, an operating plan, and a funding plan, status of negotiations with track owners, rail carrier
 - Operating assistance is limited to 3 years

AMPO 12/11/15