

P.L. 114-94

Fixing America's Surface Transportation (FAST) Act

Key Highway Provisions



U.S. Department
of Transportation

**Federal Highway
Administration**

FAST Act

- Signed by President Obama on December 4, 2015
- First long-term authorization act in a decade
- Result of bipartisan cooperation and compromise
- Provides 5 years of funding certainty for infrastructure planning and investment
- Authorizes \$305 B (all modes) over FY 2016-2020
- \$70 B in transfers to keep the Highway Trust Fund solvent; fully “paid for” (offset) by unrelated savings

\$305 B (all modes) over FY2016-2020

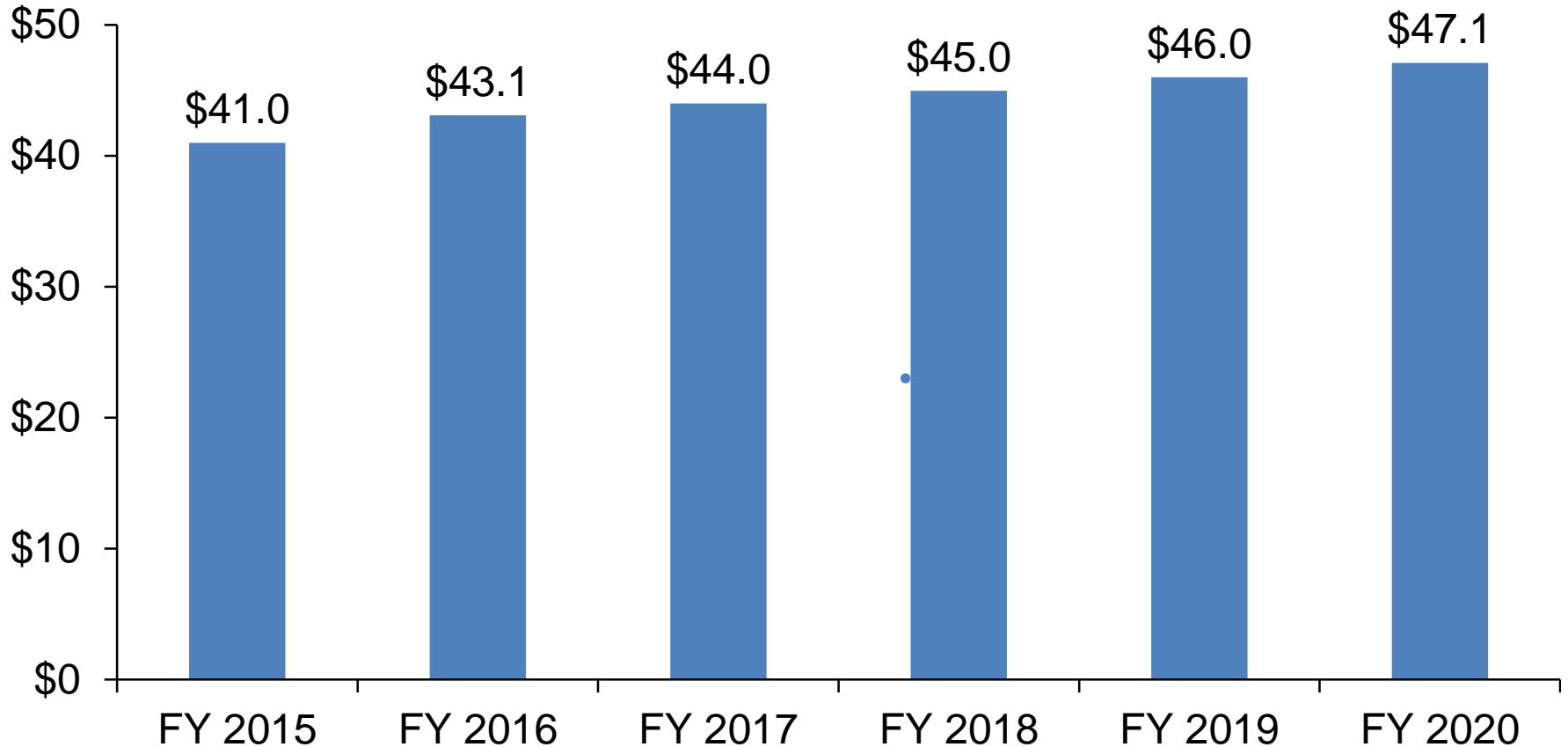
| Program | 5-Year Funding (billions) |
|---|---------------------------|
| Federal Highway Administration | \$ 226.3 |
| Federal Transit Administration | 61.1 |
| Federal Motor Carrier Safety Administration | 3.2 |
| Pipeline and Hazardous Materials Administration | 0.4 |
| National Highway Traffic Safety Administration | 4.7 |
| Federal Railroad Administration | 10.3 |
| Total | 305.0 |

Key Highway Facts

- \$226.3 B for highways over five years (FY 2016-2020)
 - \$225.2 B in contract authority
 - \$1.1 B from the General Fund
- Builds on the program structure and reforms of MAP-21
- Continued focus on accelerating project delivery
- Adds a new freight formula and expands freight network
- Adds a new discretionary program for nationally significant freight and highway projects
- Provides a new tribal self-governance option

Highway contract authority grows each year

Highway Authorizations from Trust Fund (billions)

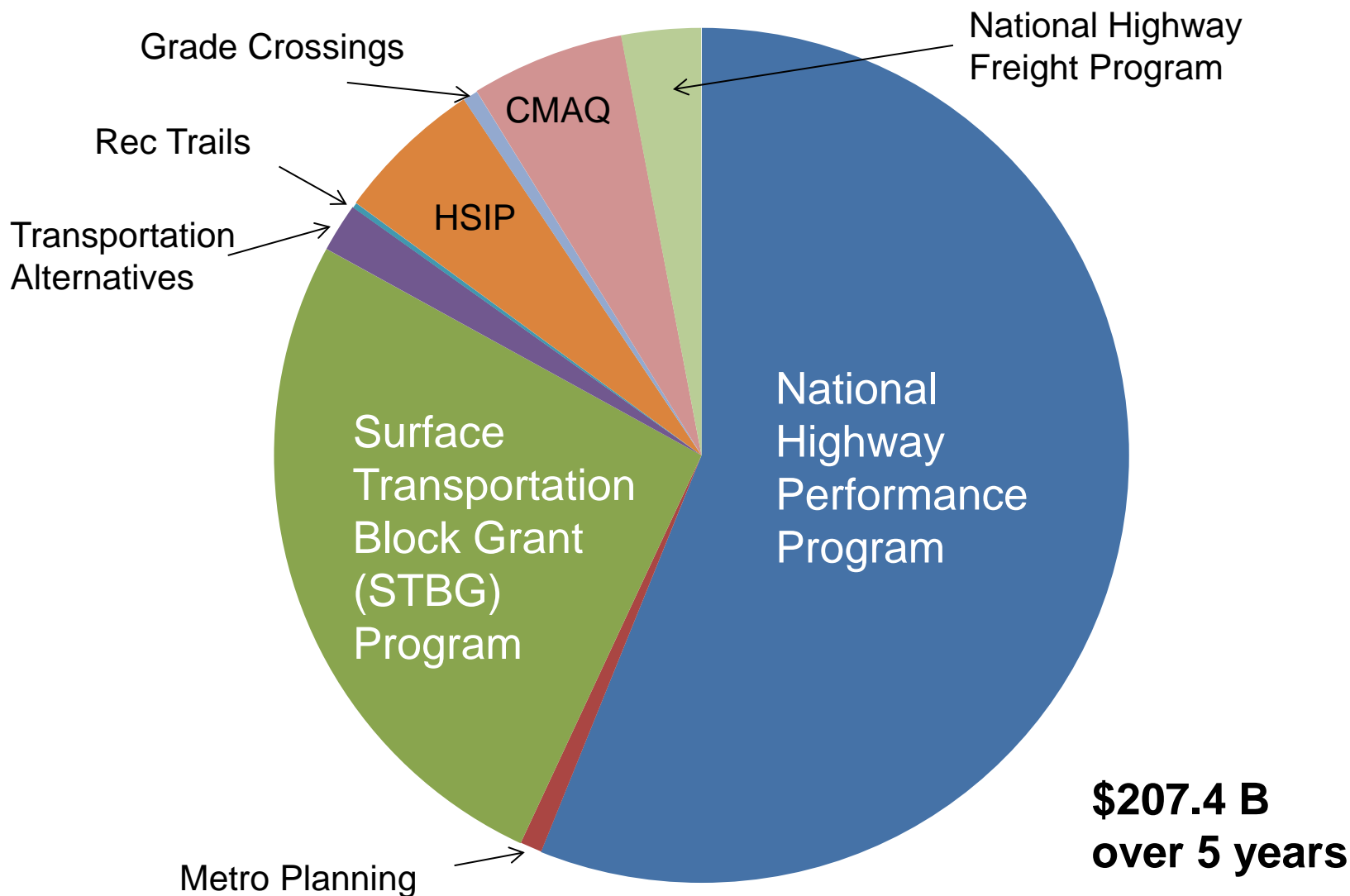


APPORTIONED PROGRAMS

Growth Varies by Program

| Program | Avg. Annual Funding (millions) | Change from FY 2015 |
|--|--------------------------------|---------------------|
| National Highway Performance Program | \$ 23,280 | +6.3% |
| Surface Transportation <u>Block Grant</u> Program | 11,654 | +15.6 |
| <i>Transportation Alternatives Set-aside</i> | [760] | +3.3 |
| <i>Recreational Trails Program Set-aside</i> | [84] | 0.0 |
| <i>Surface Transportation Block Grant Program (net of TA & Rec Trails)</i> | [10,809] | +7.3 |
| Congestion Mitigation & Air Quality Improvement | 2,405 | +6.1 |
| Highway Safety Improvement Program | 2,317 | +5.7 |
| Railway-Highway Crossings Program | 235 | +6.8 |
| Metropolitan Planning | 343 | +9.5 |
| National Highway Freight Program | 1,249 | NEW +100.0 |

92% of Highway Funds Are Apportioned



Changes to NHPP and STP

| Prgm | Changes |
|------|---|
| NHPP | <ul style="list-style-type: none"> • TIFIA costs and V2I communication equipment now eligible • Bridge resurfacing/preservation/reconstruction on <u>non-NHS</u> Federal-aid highways now eligible |
| STP | <ul style="list-style-type: none"> • Renamed: Surface Transportation <u>Block Grant</u> Program (STBG) • Eligibilities restated with none eliminated; new eligibilities for TIFIA costs, State P3 office, V2I communication equipment • In border States, up to 5% for infrastructure projects eligible under the SAFETEA-LU border program • More suballocation: +1%/year up to 55% (vs. 50% today) • Set-asides for Transportation Alternatives and Recreational Trails (see next slide) |

Changes to TAP, CMAQ, and HSIP

| Prgm | Changes |
|-------|--|
| “TAP” | <ul style="list-style-type: none"> • Same program, but no longer called TAP; no name specified • All funds set aside from STBG (vs. from all formula programs today) • Nonprofits responsible for local transportation safety programs may be project sponsors |
| CMAQ | <ul style="list-style-type: none"> • V2I communication equipment eligible • Port-related equipment & vehicles eligible under PM2.5 set-aside • Exception from PM2.5 set-aside for low population density States (under certain conditions) |
| HSIP | <ul style="list-style-type: none"> • Only listed project types eligible—mostly infrastructure-related • Adds eligibility for V2I communication equipment and certain pedestrian safety improvements • State need not collect certain data on unpaved roads (but can’t use HSIP funds on those roads until it collects the data) |

FREIGHT

National Highway Freight Program | **NEW**

- \$1.2 B / year (average), apportioned to States by formula
- Eligible activities include construction, operational improvements, freight planning and performance measures
- Highway focus, but $\leq 10\%$ for rail/port/intermodal projects
- States required to have freight plans to obligate NHFP \$ (beginning FY 2018)
- Federal share is determined under 23 USC 120
- Repeals special Federal share for freight projects

Natl. Significant Freight & Hwy. Projects | **NEW**

- \$900 M/year (average) for competitive grants or TIFIA loans for projects >\$100 M (reduced for States w/ small programs)
- Eligible activities:
 - Highway freight projects on National Highway Freight Network
 - NHS highway/bridge projects, projects in National Scenic Areas
 - Freight rail/intermodal/port projects (\leq \$500 M over 5-year period)
 - Rail-highway grade crossing or grade separation projects
- States, large MPOs, Tribes, localities, and FLMAs may apply
- OST selects projects; Congress has 60 days to disapprove
- Set-asides for rural areas and projects below cost threshold

Other Freight Provisions

- Freight policy goals and multi-modal national freight strategic plan
- State freight plans (required) & advisory committees (encouraged)
- National multimodal freight network
- National Highway Freight Network, to include:
 - Primary Highway Freight System (PHFS); initially 41K miles
 - Critical rural freight corridors identified by States
 - Critical urban freight corridors with State-MPO consultation
 - Portions of Interstate System not included in the PHFS
- Primary Highway Freight System re-designated every 5 years (with up to 3% growth)

FEDERAL LANDS & TRIBAL

Federal Lands & Tribal Programs

| Program | Average Annual Funding (millions) | Change from FY 2015 |
|---|---|---------------------|
| Federal Lands Transportation Program <i>National Park Service</i> <i>Fish & Wildlife Service</i> <i>Forest Service NEW</i> <i>Remainder (competitive)</i> | \$ 355 [284] [30] [17] [24] | +18.3% |
| Federal Lands Access Program | 260 | +4.0 |
| Tribal Transportation Program | 485 | +7.8 |
| Nationally Significant Federal Lands and Tribal Projects (General Fund) NEW | 100 | +100 |

Federal/Tribal Lands Program Changes

- Tribal Transportation Program
 - Less funding for BIA/FHWA oversight; more funding for tribal bridges
 - New annual reporting by Tribes
- Federal Lands Transportation Program
 - New partners: Bureau of Reclamation and other independent agencies
 - Dedicated funds for Park Service, Fish & Wildlife, Forest Service **NEW**
- Emergency Relief
 - Clarified eligibility for debris removal on ERFO-eligible facilities
 - Access program facilities no longer eligible for 100% Federal share
- Nationally Significant Federal Lands & Tribal Projects | **NEW**
 - Discretionary grants for large Federal and tribal lands projects
 - All funds subject to appropriation

Tribal Self-Governance Program | NEW

- More responsibility and flexibility for participating Tribes
 - Tribe assumes responsibility for use of highway/transit funding
 - Tribe receives significant flexibility in use of funds
 - Funding must be used for the authorized purpose
- To participate, Tribe must demonstrate three FYs of financial stability and capability in financial and program management
- DOT and Tribal relationship/terms specified in multi-year compact
- Under annual agreement, Tribe plans, consolidates, and receives—
 - Full Tribal share funding
 - Tribal transit formula funding
 - Discretionary/competitive grant funding administered by DOT
- DOT to initiate negotiated rule within 90 days; NPRM in 21 months

RESEARCH, DEVELOPMENT, TECHNOLOGY & EDUCATION

RDT&E Funding

| Program | Avg. Annual Funding (millions) | Change from FY 2015 |
|---|--------------------------------|---------------------|
| Highway R&D | \$ 125.0* | +8.7% |
| Alternative Funding Demonstration Grants | [19.0] | |
| Future Interstate Study | [1.0] | |
| Performance Management Data Support | [up to 10.0] | |
| Technology & Innovation Deployment Program | 67.4* | +7.8 |
| Accelerated Implementation of Pavement Tech. | [12.0] | |
| Training & Education | 24.0 | 0.0 |
| Intelligent Transportation Systems Research | 100.0* | 0.0 |
| University Transportation Centers | 75.5 | +4.1 |
| Bureau of Transportation Statistics | 26.0 | 0.0 |
| *Advanced Transportation & Congestion Management Technologies Deployment Grants (to be funded from Highway R&D, TIDP, & ITS Research) | [\$60.0]* | |
| Flexible funding in HRD, TIDP, and ITS programs | 200.0 | -24.7 |

PLANNING, PERFORMANCE & PROJECT DELIVERY

Planning & Performance

- More consultation and participation
 - Enables participation by public ports, private transportation providers
 - Encourages MPO consultation with other types of planning activities
- Changes to selection criteria for MPO officials
- Other changes to planning and performance
 - TIPs/STIPs/long-range plans must include facilities that support intercity transportation
 - New planning considerations: resiliency/reliability, stormwater mitigation, and enhancement of travel/tourism
 - Long-range State plan must describe perf. measures and targets
 - Consequence (reporting) for State making insufficient progress toward freight targets

Accelerating Project Delivery

A major theme of the FAST Act, with 18 separate provisions in the highway title alone.

The Act—

- Adds New Flexibilities
 - Section 4(f) exemption for some bridges
 - Authorizes taking of nesting swallows in at-risk bridges
- Refines Existing Provisions
 - Narrows concurrence requirement for PEL
 - Pilot for substitution of State law for NEPA

Accelerating Project Delivery, cont'd

- Adds to Procedural Requirements
 - Requires a schedule, a checklist, and response to project initiation
 - Adds some new specific time frames for notices and reviews
- Builds on Existing Activities
 - Requires permitting dashboard (but covers all EISs & EAs)
- DOT to maximize use of authority to delegate project oversight to States on both a project and programmatic basis

OTHER PROGRAMS & PROVISIONS

TIFIA and Ferry Boat Programs

- Changes to TIFIA (beyond 71% funding cut)
 - New eligibilities for transit-oriented development (TOD), capitalizing rural projects fund in a SIB
 - Lower min. cost (\$10 M) for local govt. applicants and for TOD
 - TIFIA now eligible under NHPP, STBGP, Nationally Significant Freight and Highway Projects
 - No more requirement to redistribute uncommitted TIFIA funds
 - Reserves at least \$2 M to be used in lieu of fee payment by applicants for loans for projects costing less than \$75 M
- Changes to ferry program
 - Formula now gives more weight to number of ferry passengers
 - After 4 years, FHWA withdraws unobligated Ferry program funds (and distributes them to other eligible recipients)

Tolling/HOV

- Tolling –
 - Technical clean up of statutory language
 - Requires same treatment on certain toll facilities for over-the-road buses and transit buses
 - Must consult MPO on toll placement/amount for HOT lanes on Interstate facilities within metropolitan planning area
- ISRRPP – Expiration timeframe for provisional approvals:
 - Those in place before FAST Act expire 1 year after enactment of FAST Act (with possible 1-year extension)
 - New ones (post-FAST) expire after 3 years (w/possible 1 yr. extension)
- Allows waiver of sanctions for degraded HOV operation under certain conditions

Highway Design

- On NHS, design "shall consider" (previously "may take into account")—
 - constructed/natural environment
 - environ., scenic, aesthetic, historic, community, & preservation impacts
 - access for other modes
 - cost savings via flexibility in current design guidance/regulations | **NEW**
- DOT to consider AASHTO Highway Safety Manual, NACTO Urban Street Design Guide
- Encouragement for States/MPOs to adopt standards for Fed. projects that accommodate motorized and non-motorized users
- Locality may use different roadway publication than State (with State approval) in certain circumstances

Other Provisions

- Specifically allows multiple similar bridge projects to be handled (“bundled”) into a single project
- DOT to designate national electric vehicle charging and hydrogen, natural gas, and propane fueling corridors
- Encouragement of vegetation management practices that improve habitat and forage for pollinators
- State may opt for Federal share <100% for Appalachian Development Highway System (ADHS) projects

Office of Policy & Governmental Affairs

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