

AASHTO First Take at the New Surface Transportation Bill FIXING AMERICA'S SURFACE TRANSPORTATION (FAST) ACT December 2, 2015

OVERVIEW

On December 1, 2015, the House-Senate Conference Committee on H.R. 22 filed its report which reconciles the House-passed *Surface Transportation Reauthorization and Reform Act (STRRA) of 2015* with the Senate-passed *Developing a Reliable and Innovative Vision for the Economy (DRIVE) Act*. Officially titled the *Fixing America's Surface Transportation (FAST) Act*, this bill represents the first long-term, comprehensive surface transportation policy proposal since 2005's SAFETEA-LU that authorizes Federal highway, highway safety, transit, and rail programs for five years from federal fiscal years 2016 through 2020. Both chambers of Congress are expected to pass the FAST Act in the coming days to present for the President's signature.

The FAST Act authorizes \$305 billion from both the Highway Trust Fund and the General Fund of the US Treasury. It provides \$225 billion in HTF contract authority over five years for the Federal-aid Highway Program, increasing funding from \$41 billion in 2015 to \$47 billion in 2020. The bill continues to distribute nearly 93 percent of all Federal-aid Highway program contract authority to State DOTs through formula programs. The bill place major emphasis on freight investments to be supported by the HTF by creating a new National Highway Freight program funded at an average of \$1.2 billion per year that is distributed to the States by formula. In addition, a new discretionary program entitled the Nationally Significant Freight and Highway Projects is established, funded at an average of \$900 million per year. Under the renamed Surface Transportation Block Grant Program, the FAST Act gradually increases the percentage of STBGP that is suballocated by population from 51 percent in 2016 to 55 percent by 2020. The bill also includes a \$7.6 billion rescission of unobligated Federal-aid Highway contract authority in FY 2020.

The FAST Act provides \$61 billion over five years for Federal transit programs including \$49 billion in HTF contract authority and \$12 billion in funding from the General Fund. For highway safety the bill provides a total of \$4.7 billion for the National Highway Traffic Safety Administration (\$3.7 billion from the HTF) and \$3.2 billion for the Federal Motor Carrier Safety Administration. Unlike the past highway and transit bills, the FAST Act also authorizes \$10 billion of General Funds over five years for the Federal Railroad Administration and Amtrak.

AASHTO has created a [FAST Act website portal](#) to provide "one-stop shopping" for federal surface transportation reauthorization and implementation materials. The official documents related to the bill can be found on [this Congressional website](#).

This "First Take" document represents a preliminary summary of the FAST Act by the AASHTO staff. A comprehensive summary and analysis of this new bill will be developed in the coming days.

FUNDING TABLE

Funding Table for the FAST Act, FY 2016 to FY 2020

In millions of dollars / HTF = Highway Trust Fund / GF = General Fund

Program Category	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	5-Year Total	5-Year Avg
HIGHWAYS								
National Highway Performance Program	21,908	22,332 1.9%	22,828 2.2%	23,262 1.9%	23,741 2.1%	24,236 2.1%	116,399	23,280
Surface Transportation Block Grant Program	9,257	10,328 11.6%	10,589 2.5%	10,818 2.2%	11,026 1.9%	11,287 2.4%	54,048	10,810
Highway Safety Improvement Program	2,192	2,226 1.5%	2,275 2.2%	2,318 1.9%	2,360 1.8%	2,407 2.0%	11,586	2,317
Railway-Highway Grade Crossings	220	225 2.3%	230 2.2%	235 2.2%	240 2.1%	245 2.1%	1,175	235
Congestion Mitigation and Air Quality Program	2,267	2,309 1.9%	2,360 2.2%	2,405 1.9%	2,449 1.8%	2,499 2.0%	12,022	2,404
Metropolitan Planning Program	314	329 4.9%	336 2.1%	343 2.1%	350 2.0%	359 2.6%	1,717	343
National Highway Freight Program	n/a	1,140 n/a	1,091 -4.3%	1,190 9.1%	1,338 12.4%	1,487 11.1%	6,246	1,249
Surface Transportation Block Grant Program Set Aside	820	835 n/a	835 0.0%	850 1.8%	850 0.0%	850 0.0%	4,220	844
SAFETEA-LU Legacy Allocated Safety Programs	n/a	4 n/a	4 14.3%	4 0.0%	4 0.0%	4 0.0%	20	4
Total, Apportioned Programs (HTF)	36,978	39,728 7.4%	40,548 2.1%	41,425 2.2%	42,358 2.3%	43,374 2.4%	207,433	41,487
Federal Lands and Tribal Transportation Programs	1,000	1,050 5.0%	1,075 2.4%	1,100 2.3%	1,125 2.3%	1,150 2.2%	5,500	1,100
Research Programs	400	414 3.5%	418 1.0%	418 0.0%	420 0.5%	420 0.0%	2,090	418
Miscellaneous Programs	357	380 6.4%	380 0.0%	380 0.0%	380 0.0%	380 0.0%	1,900	380
Transportation Infrastructure Financing and Innovation Act	1,000	275 -72.5%	275 0.0%	285 3.6%	300 5.3%	300 0.0%	1,435	287
Nationally Significant Highway and Freight Projects	n/a	800 n/a	850 6.3%	900 5.9%	950 5.6%	1,000 5.3%	4,500	900
FHWA Administrative	440	453 3.0%	460 1.5%	467 1.5%	474 1.5%	481 1.5%	2,335	467
Total, Other Programs (HTF)	3,197	3,372 5.5%	3,458 2.6%	3,550 2.7%	3,649 2.8%	3,731 2.2%	17,760	3,552
Total, Federal-Aid Highway Program (HTF)	40,175	43,100 7.3%	44,006 2.1%	44,975 2.2%	46,007 2.3%	47,105 2.4%	225,193	45,039
Total, Other Programs (GF)	30	222 640.0%	210 -5.4%	210 0.0%	210 0.0%	210 0.0%	1,062	212
Total, Federal-aid Highway Program (HTF and GF)	40,205	43,322 7.8%	44,216 2.1%	45,185 2.2%	46,217 2.3%	47,315 2.4%	226,255	45,251
Obligation Limitation (Full Year)	40,256	42,361 5.2%	43,266 2.1%	44,234 2.2%	45,269 2.3%	46,365 2.4%	221,495	44,299
AASHTO Base Funding Scenario: Sustain Current Investment in Real Terms	40,175	42,113 4.8%	43,034 2.2%	43,961 2.2%	45,001 2.4%	46,042 2.3%	220,150	44,030
TRANSIT								
Planning Programs	129	131 1.7%	133 1.5%	136 2.3%	139 2.2%	142 2.2%	681	136
Urbanized Area Formula Grants	4,459	4,539 1.8%	4,630 2.0%	4,727 2.1%	4,827 2.1%	4,930 2.1%	23,653	4,731
Elderly and Disabled	258	263 1.8%	268 1.9%	274 2.2%	280 2.2%	286 2.1%	1,371	274
Rural Formula Grants	608	620 2.0%	632 1.9%	646 2.2%	659 2.0%	673 2.1%	3,230	646
State of Good Repair	2,166	2,507 15.7%	2,550 1.7%	2,594 1.7%	2,638 1.7%	2,684 1.7%	12,973	2,595
Bus and Bus Facility Formula	428	428 0.0%	436 1.9%	446 2.3%	455 2.0%	465 2.2%	2,230	446
Bus and Bus Facility Discretionary	n/a	268 n/a	284 6.0%	302 6.3%	322 6.6%	344 6.8%	1,520	304
Fast Growth/High Density	n/a	536 n/a	544 1.5%	553 1.7%	561 1.4%	570 1.6%	2,764	553
Positive Train Control Grants	n/a	n/a n/a	199 n/a	0 n/a	0 n/a	0 n/a	199	40
Other Programs	22	56 155.7%	57 1.8%	57 0.0%	58 1.8%	58 0.0%	286	57
Total, Apportioned Programs (HTF)	8,069	9,348 15.8%	9,733 4.1%	9,735 0.0%	9,939 2.1%	10,152 2.1%	48,907	9,781
Total, Other Programs (GF)	187	140 -25.1%	140 0.0%	140 0.0%	140 0.0%	140 0.0%	700	140
Capital Investment Grants (GF)	1,907	2,302 20.7%	2,302 0.0%	2,302 0.0%	2,302 0.0%	2,302 0.0%	11,510	2,302
Total, Federal Transit Program (HTF and GF)	10,163	11,790 16.0%	12,175 3.3%	12,177 0.0%	12,381 1.7%	12,594 1.7%	61,117	12,223
AASHTO Base Funding Scenario: Sustain Current Investment in Real Terms	10,694	12,007 12.3%	12,210 1.7%	12,414 1.7%	12,657 2.0%	12,901 1.9%	62,189	12,438
HIGHWAY SAFETY								
Federal Motor Carrier Safety Administration (HTF)	572	580 1.4%	644 11.0%	658 2.2%	666 1.2%	676 1.5%	3,224	645
National Highway Traffic Safety Administration (HTF)	680	716 5.3%	731 2.1%	747 2.1%	762 2.1%	778 2.1%	3,735	747
Total, Highway Safety Program (HTF)	1,252	1,296 3.5%	1,375 6.1%	1,405 2.1%	1,428 1.7%	1,454 1.8%	6,959	1,392
PASSENGER RAIL								
Grants to Amtrak (GF)	1,390	1,450 4.3%	1,500 3.4%	1,600 6.7%	1,700 6.3%	1,800 5.9%	8,050	1,610
Other Federal Railroad Administration Grants (GF)	n/a	200 n/a	350 75.0%	425 21.4%	575 35.3%	650 13.0%	2,200	440
Amtrak Inspector General (GF)	n/a	20 n/a	20 0.0%	21 5.0%	22 4.8%	22 0.0%	105	21
Total, Passenger Rail Program (GF)	1,390	1,670 20.1%	1,870 12.0%	2,046 9.4%	2,297 12.3%	2,472 7.6%	10,355	2,071
GRAND TOTAL (HTF)	49,496	53,744 8.6%	55,114 2.6%	56,115 1.8%	57,374 2.2%	58,711 2.3%	281,058	56,212
GRAND TOTAL (HTF and GF)	53,010	58,077 9.6%	59,636 2.7%	60,813 2.0%	62,323 2.5%	63,835 2.4%	304,685	60,937
Program Category	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	5-Year Total	5-Year Avg

PRELIMINARY HIGHLIGHTS OF THE FAST ACT

Highway Trust Fund

- In case additional revenues beyond FAST are deposited into the HTF, the bill provides for a mechanism where such dollars would automatically be made available for obligation to states, without further action by Congress. There is no reduction in HTF funding in case revenues are less than currently estimated.
- For FY 2016, funding provided under MAP-21 extensions would be deducted from those levels provided under FAST based on the date of official enactment.
- FAST rescinds \$7.6 billion of unobligated contract authority on July 1, 2020, which would be derived from Federal-aid Highway Program categories other than the Highway Safety Improvement Program, Railway-Highway Crossings Program, Metropolitan Planning, and suballocated portions of the Surface Transportation Block Grant Program. In addition, non-exempt program dollars are required to be rescinded on a proportional basis. As of the end of FY 2015, \$15.2 billion of unobligated contract authority was carried by all states.

Surface Transportation Block Grant Program (STBGP)

- Surface Transportation Program (STP), one of the core Federal-aid Highway Program categories, is renamed as Surface Transportation Block Grant Program (STBGP).
- STBGP is suballocated based on population in a graduated manner, increasing one percent per year from 51 percent of total STBGP dollars in 2016 to 55 percent by 2020. State share of STBGP is expected to be flat, funded at \$4.95 billion in 2016 and \$4.97 billion in 2020; suballocated share is funded at \$5.15 billion in 2016, growing to \$6.07 billion by 2020.
- The current off-system bridge set-aside is retained, funded at \$777 million for each year under FAST.
- Transportation Alternatives Program is folded into STBGP as an “STP Set-aside,” funded at \$835 million in the first two years and \$850 million in the last three. In addition, up to 50 percent of the suballocated portion of STP Set-aside could be transferred to STBGP, which means up to 75 percent of total STP Set-aside dollars can be transferred. The optional Recreational Trails eligibility remains the same.

National Highway Performance Program (NHPP)

- NHPP dollars are eligible to be expended on non-NHS highway bridges that are on a Federal-aid highway; this addresses the “donut hole” issue for federal bridge funding. The current Off-system Bridge set-aside under STP/STBGP is retained.

Project Delivery and Streamlining

- FAST expands the multimodal categorical exclusion established in MAP-21 to allow any DOT operating administration to use a categorical exclusion of another operating administration.
- FAST directs USDOT to apply the environmental streamlining measures in 23 USC 139 to rail projects when conducting NEPA analysis, to the greatest extent feasible.
- FAST requires USDOT to propose new categorical exclusions for railroad projects.
- FAST requires annual indexing of the financial thresholds for the categorical exclusion for projects with limited federal assistance, in accordance with the consumer price index.
- FAST amends the federal audit process for states that have federal NEPA assignment to ease the burden on states, and gives States more input in the audit process.

- FAST establishes a pilot program for states with NEPA assignment to substitute their State environmental review law(s) for NEPA.
- FAST improves the process for carrying planning level decisions forward into the NEPA process and expands the decisions that may be carried forward. However, requires the *concurrence of cooperating agencies* if the planning product is “necessary for a cooperating agency to issue a permit, review, or approval for the project.”
- FAST requires “early concurrence or issue resolution” during the scoping process on purpose and need, and the range of alternatives to analyze in the environmental review process, which compares to current law that calls only for “an opportunity for involvement.”
- FAST requires lead agencies to establish project schedules for environmental impact statements and environmental assessments after *consultation with and the concurrence of each participating agency for the project*; currently, project schedules are not required.

Freight and Major Projects

- FAST creates a National Multimodal Freight Network, which includes a National Highway Freight Network consisting of all Interstates, an additional 41,000 primary freight network highway miles identified under MAP-21, and other State identified highway segments.
- FAST establishes a new national freight program as part of the core Federal-aid Highway Program structure. This formula program is authorized at \$6.2 billion over five years, and a State’s share of national freight program will be reflective of a State’s overall highway program apportionment. FAST repeals the increased federal match for freight projects on Interstates and highways
- FAST requires all states using formula dollars to complete a State Freight Plan, either standalone or part of a state’s long-range transportation plan. The plans must be updated every 5 years
- FAST creates a Port Performance statics program, requiring ports of certain thresholds to report annual throughput statistics. An advisory group will report to the Secretary annually on recommendations to improve port efficiency.
- FAST also creates the Nationally Significant Freight and Highway Projects discretionary grant program designed for major highway and freight projects funded at \$4.5 billion over five years. Its features include:
 - Eligibility only for projects that cost the minimum of at least \$100 million, 30 percent of a state’s apportioned total, or 50 percent of the apportioned total for the largest state in case of multistate projects.
 - 10 percent of total funding is reserved for small projects and 25 percent is set aside for rural projects.
 - There is a \$500m limit on non-highway multimodal projects.
 - Federal share is limited to 60 percent of project cost, though other federal dollars can be used as non-Federal match as long as the total amount of Federal dollars do not exceed 80 percent of project cost.
 - Could be used to pay for subsidy cost of a TIFIA loan.
 - Within 60 days, Congress reserves the right to disapprove any project contained in the USDOT-approved list.

Design Standards

- FAST requires design standards under 23 USC 109 to consider “cost savings by utilizing flexibility that exists in current design guidance and regulations.”
- The bill adds the AASHTO *Highway Safety Manual* and the *Urban Street Design Guide* by the National Association of City Transportation Officials to the list of resources to be utilized for design criteria development.
- Local entities that are direct recipients of federal dollars are allowed to use a design publication that is different than one used by the state DOT.

Revenue and Financing

- TIFIA is funded at \$275 million in 2016, rising to \$300 million by 2020. Flexibility in “buying down” TIFIA subsidy and administrative costs is increased, as NHPP and Nationally Significant Freight and Highway Projects grant dollars could be applied. TIFIA can also be used to support investments in transit-oriented developments and to capitalize Rural Project Funds if established by a State Infrastructure Bank.
- Interstate System Reconstruction and Rehabilitation Pilot Program is revised to limit the reservation of each of the current three slots to three years. In addition, current slot holders have one year prior to expiration. These limits can be extended by one year if there is deemed to material progress.
- FAST brings back the old SAFETEA-LU eligibility to capitalize State Infrastructure Banks with Federal-aid Highway formula dollars.
- The bill statutorily formalizes the USDOT Credit Council as the “Council on Credit and Finance.”

Highway Safety

- FAST removes current law eligibility which allows use of Highway Safety Improvement Program (HSIP) funds for non-infrastructure safety programs, such as education and enforcement activities. Unlike the DRIVE Act, however, overall HSIP funding level is maintained at current baseline.
- USDOT is asked to conduct a study on the impacts of marijuana-impaired driving

Performance Measures

- Eliminates the need for state DOTs to collect safety data and information on unpaved/gravel roads.
- If a State DOT does not achieve or make significant progress toward achieving targets after one reporting cycle to include in a report a description of the actions they will undertake to achieve their targets in the future.
- The penalty for falling below the minimum condition levels for pavements on the interstate system is imposed after the first reporting cycle.

Planning and Asset Management

- There are no significant changes to the performance-based planning process established in MAP-21.
- Expands the scope of the planning process to include addressing resiliency and reliability as well as enhancing travel and tourism of the transportation system.
- Requires state DOTs to incorporate the performance measures of a transit agency not represented by a metropolitan planning organization (MPO) into its long range transportation plan regardless if it is in an urban or rural area.
- Adds language that the long-range transportation plan shall consider public ports and freight shippers.
- Encourages consideration of intermodal facilities that support intercity buses as part of the metropolitan and statewide planning process.

- Clarified what “private providers of transportation” include.
- Changes to a “shall” regarding the inclusion of description of performance measures and the system performance report in a state’s long-range transportation plan.
- Requires states to establish a State Freight Plan, either separately or part of the States long range plan, in order to spend 23 USC 167 funds. If separate, it must be updated every five years (proposed Chapter 702—Multimodal Freight Transportation Planning and Information)
- There are no significant changes to the requirement that State DOTs must develop a risk-based asset management plan.
- Money under the new Surface Transportation Block Grant Program could be used to develop an asset management plan.

Research and Innovation

- The bill creates the National Surface Transportation and Innovative Finance Bureau to integrate current federal credit programs under TIFIA and the Railroad Rehabilitation and Infrastructure Financing (RRIF) program with institutional capacity-building and project permitting and expediting efforts under one office, under an Executive Director at the Office of the Secretary of Transportation.
- Funded between \$15 million and \$20 million per year, STRRA authorizes a research program to examine user fee-based alternative revenue mechanisms to ensure long-term HTF solvency.
- FAST provides \$5 million for a study by the Transportation Research Board on actions needed to upgrade and repair the Interstate Highway System to meet growing and shifting demands over the next 50 years.

Public Transportation

- Similar to SAFETEA-LU, FAST once again authorizes new competitive grant programs for bus and bus facilities.
- FAST creates mechanisms to pool resources for transit providers by enabling cooperative procurements and leasing for small urban and rural systems.
- FAST retains the current Growing States and High Density program.
- The bill increases domestic content requirement under Buy America from the current 60 percent to 65 percent in 2018, and to 70 percent in 2020, and it includes new language that requires the Secretary, upon denial of a Buy America waiver, to issue a written certification that the item is produced in the U.S. in sufficient quantity and quality, along with other information.

Passenger Rail

- FAST authorizes passenger rail programs for five years to be consistent with the highway, highway safety, and transit programs. This is one year longer than the passenger rail bills passed earlier this year by the House and the Senate.
- FAST provides support for the State Supported Route Committee (States, Amtrak and the Federal Railroad Administration) at \$2 million per year
- The Northeast Corridor Commission (States, Amtrak and FRA) is funded at \$5 million per year
- The Gulf Coast Working Group (States, Amtrak, FRA and others) is funded at \$0.5 million in 2016 and 2017.
- FAST Expedites rail project delivery and environmental streamlining provisions.
- Amtrak Board of Directors increased to ten members from the current nine.
- FAST provides \$199 million in one-time funding for implementation of positive train control systems by commuter railroads.