

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

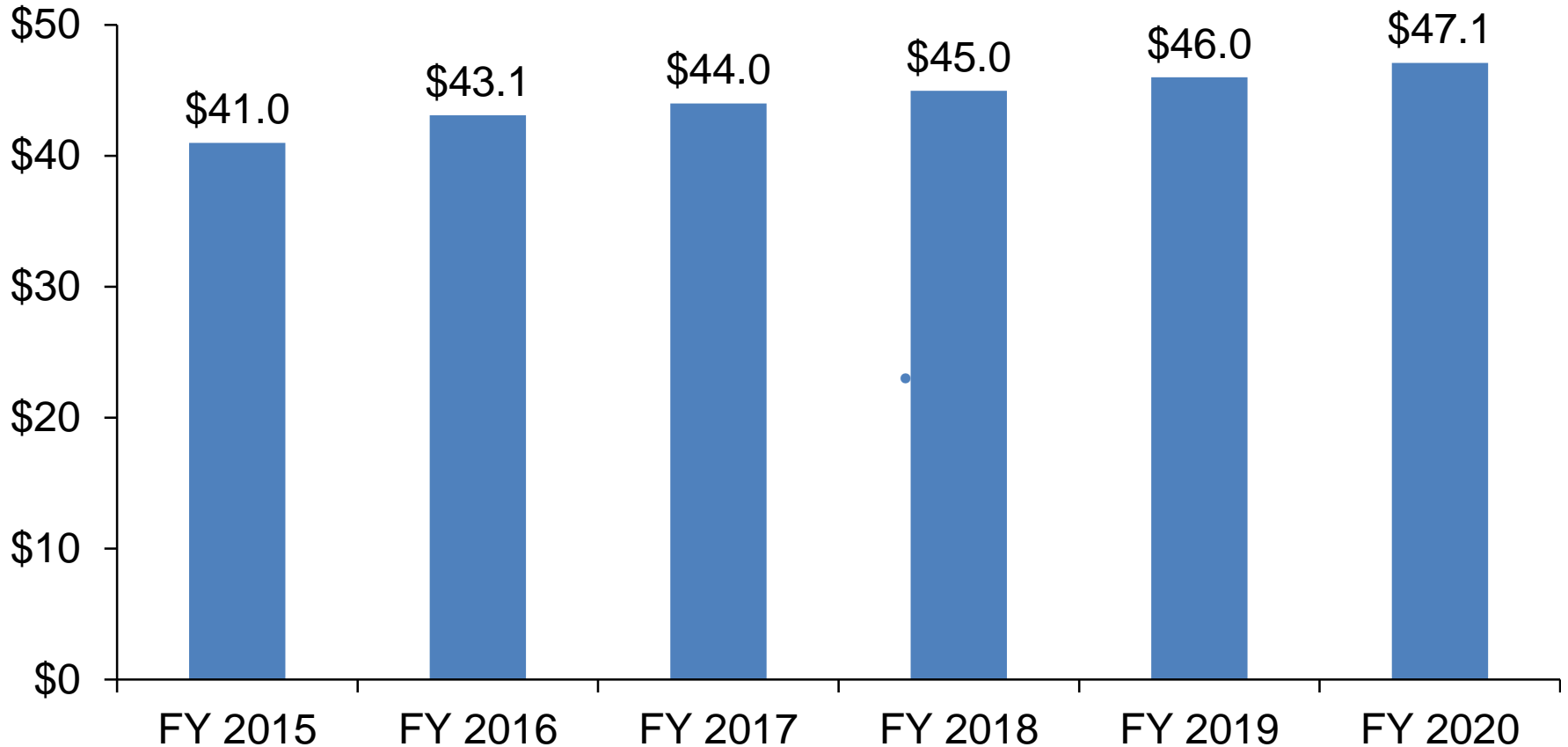
Program	5-Year Funding (billions)
Federal Highway Administration	\$ 226.3
Federal Transit Administration	61.1
Federal Motor Carrier Safety Administration	3.2
Pipeline and Hazardous Materials Administration	0.4
National Highway Traffic Safety Administration	4.7
Federal Railroad Administration	10.3
Total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

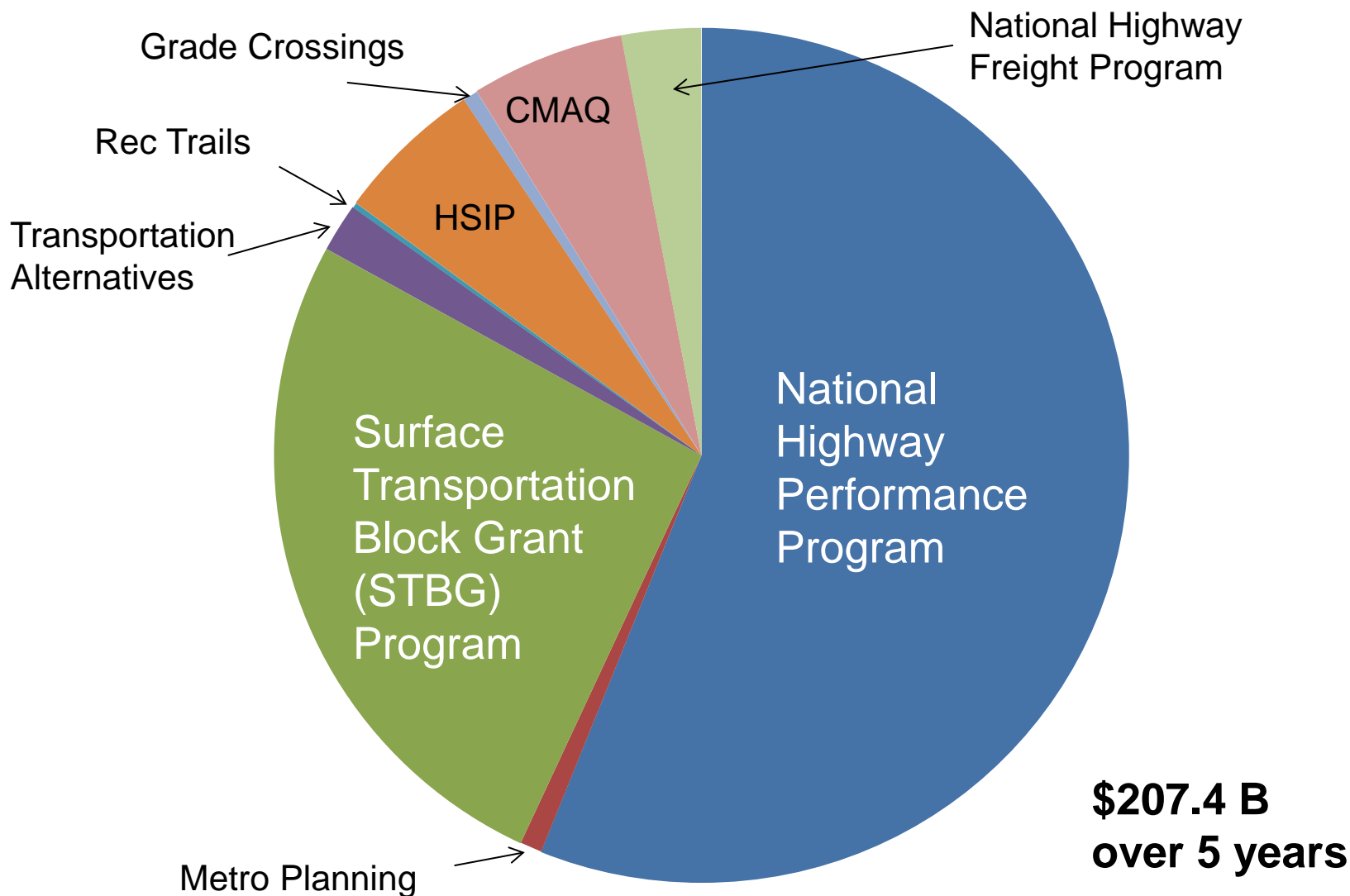


APPORTIONED PROGRAMS

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
- No State freight plan, no freight formula \$ (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
- Highway network re-designated every 5 years (w/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

January 2016



U.S. Department
of Transportation

**Federal Highway
Administration**