

P.L. 114-94

# Fixing America's Surface Transportation (FAST) Act

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Key Highway Provisions



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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

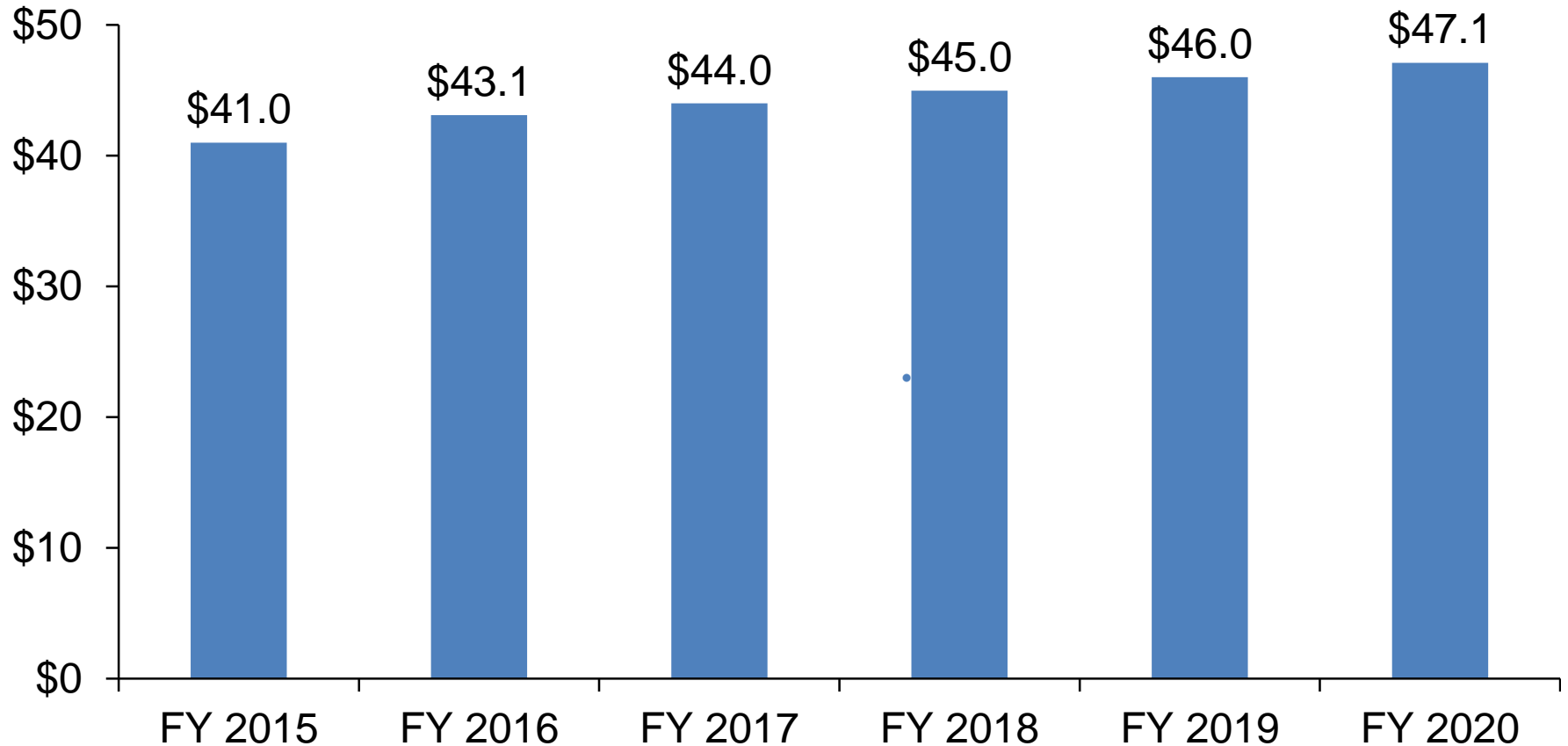
Program	5-Year Funding (billions)
Federal Highway Administration	\$ 226.3
Federal Transit Administration	61.1
Federal Motor Carrier Safety Administration	3.2
Pipeline and Hazardous Materials Administration	0.4
National Highway Traffic Safety Administration	4.7
Federal Railroad Administration	10.3
Total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

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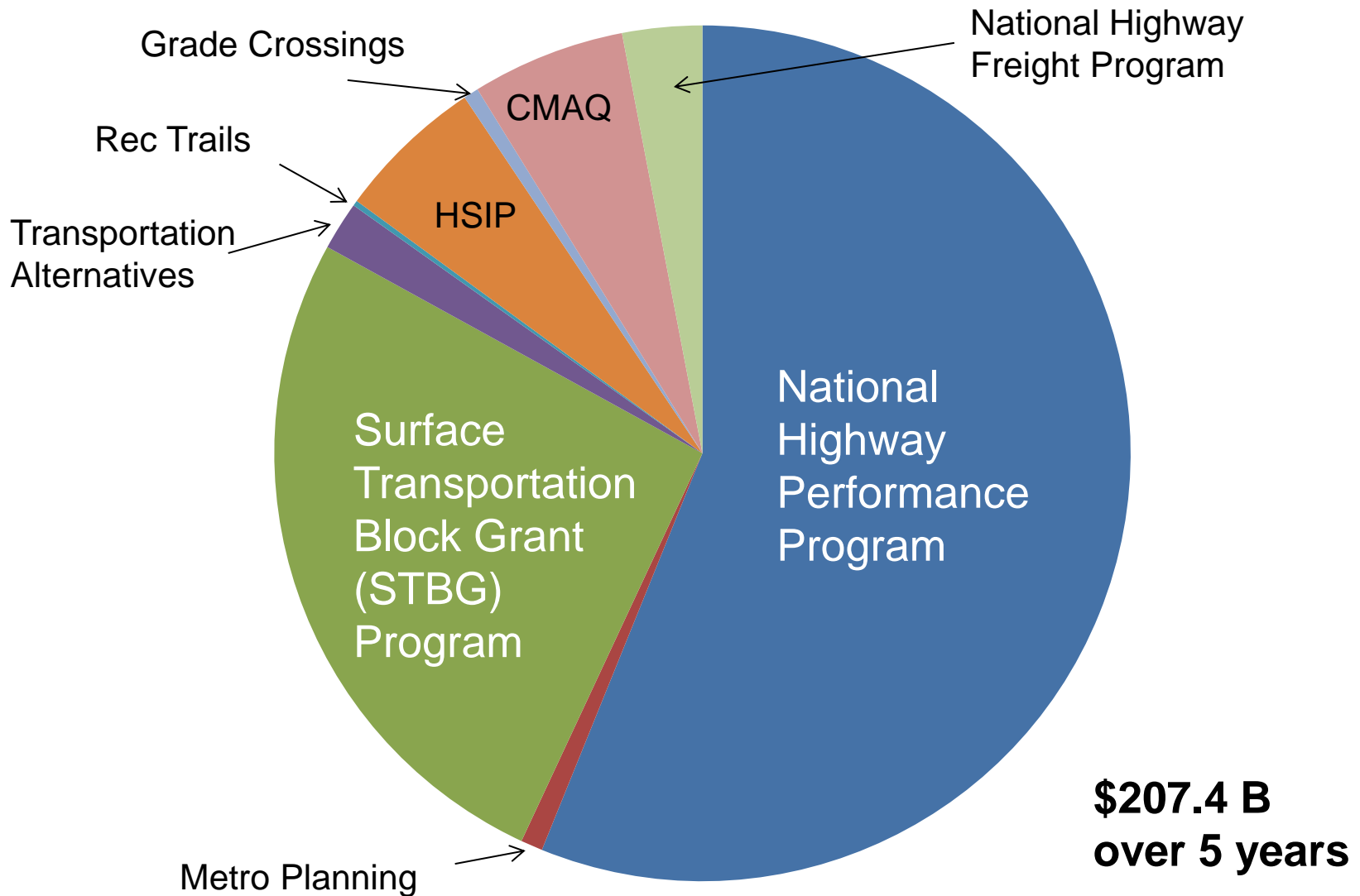
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# Growth Varies by Program

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 &amp; 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	<b>NEW</b> +100.0

# 92% of Highway Funds Are Apportioned





# Changes to NHPP and STP

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

# Changes to TAP, CMAQ, and HSIP

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

# FREIGHT

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# 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 funds (beginning December 4, 2017)
- Federal share is determined under 23 USC 120
- Repeals special Federal share for freight projects

# FASTLANE Grants | **NEW**

## (Nationally Significant Freight & Hwy. Projects)

- \$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

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# Federal Lands & Tribal Programs

Program	Average Annual Funding (millions)	Change from FY 2015
Federal Lands Transportation Program	\$ 355	+18.3%
<i>National Park Service</i>	[284]	
<i>Fish &amp; Wildlife Service</i>	[30]	
<i>Forest Service   NEW</i>	[17]	
<i>Remainder (competitive)</i>	[24]	
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

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# 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

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# 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

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# 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, STBG, 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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