

## Analysis of Fixing America's Surface Transportation (FAST) Act

January 2016

On Dec. 4, 2015, President Obama signed into law a five-year, \$305.5 billion surface transportation authorization bill that reauthorizes the federal highway and public transportation programs for fiscal years 2016-2020. The legislation, called the Fixing America's Surface Transportation Act (FAST Act) [P.L. 114-94] handily passed the U.S. House of Representatives 359-65 and the U.S. Senate 83-16. It is the first long-term surface transportation bill since TEA-21 in 1998 and ended a cycle of 36 extensions.

The legislation grows annual federal highway investment by 15.1 percent from the current \$40.3 billion to \$46.4 billion by FY20 and boosts core transit program investment by 17.8 percent from \$10.7 billion to \$12.6 billion in FY20.

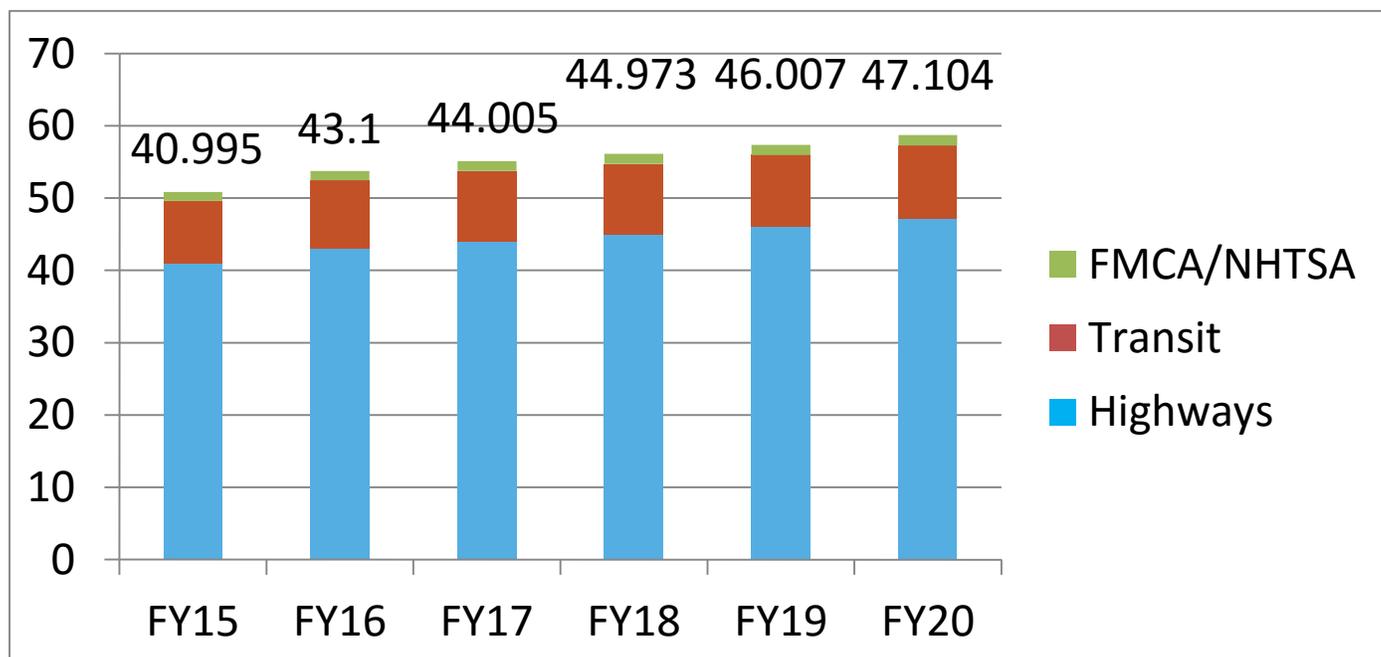
The FAST Act, however, does not provide a permanent solution to the Highway Trust Fund's structural revenue deficit. The measure uses a variety of one-time cost savings and non-transportation resources to supplement incoming trust fund revenue to support its investment levels over the next five years. As such, the Highway Trust Fund will be facing another revenue shortfall in roughly four years and the current \$15 billion per year gap between what current trust fund receipts can support and existing investment level will widen.

### FAST Act Funding

\$281B	Five years gross contract authority for HTF
+\$24.3B	Future general fund appropriations
+\$500M	Emergency Relief Program
+\$139M	Emergency Preparedness Fund

**\$305.5 billion in FAST Act**

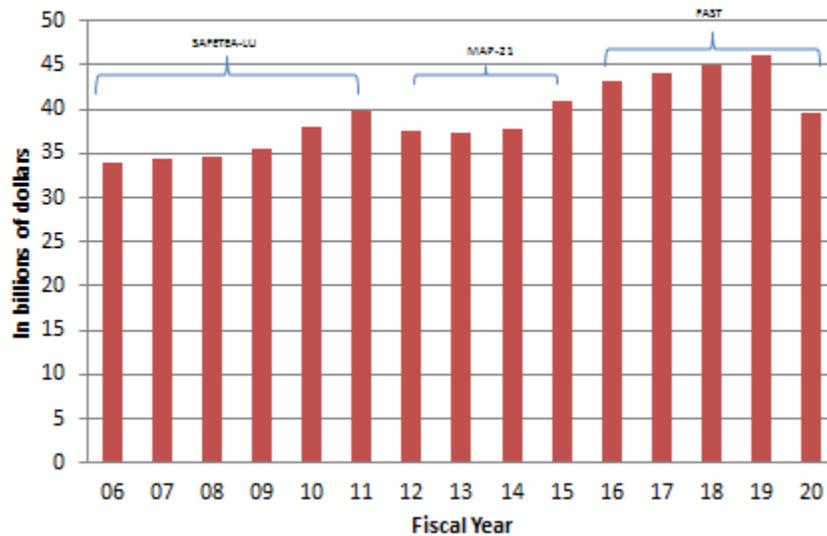
### Breakdown of \$281B Gross Contract Authority for Highway Trust Fund



## Highway Program Funding

Of the \$281 billion in gross contract authority for the Highway Trust Fund, \$225.2 billion is for highway investment. This is a \$20.2 billion increase over five years, until the rescission in FY20.

### Highway Funding Levels FY2006-FY2020



<b>\$207.4B</b>	<b>Apportioned to states by formula</b>
<b><u>+\$17.8B</u></b>	<b>Additional programs ran by federal government (research and development, FHWA and competitive grants)</b>
<b>\$225.2B</b>	<b>From HTF for Highway Investment</b>

## Pay-Fors

\$53.3B	Federal Reserve surplus
+ \$6.9B	Federal Reserve dividend payment cut
+ \$6.2B	Sell 66m barrels of SPR crude oil
+ \$5.2B	Index Customs fees for inflation
+ \$2.4B	Allow the IRS to hire private tax collectors
+ \$423M	Increase NHTSA civil penalties
+ \$395M	Passport revocation for tax scofflaws
+ \$320M	ONRR royalty overpayment fix
<b>\$75.2B</b>	<b>Total ten-year value of pay-fors</b>

**The following policy analysis of the FAST Act focuses on those titles and sections with the most potential impacts on the aggregates industry.**

## **Title I - Federal-Aid Highways**

*This title reauthorizes the Federal-aid highway and highway safety construction programs for FY16-20 and establishes new programs to promote the efficient movement of freight and support large-scale projects of national or regional significance.*

### **Freight Program**

NSSGA has long supported the creation of a distinct program to fund highway-related freight improvements. The FAST Act does just that, creating a new freight program so states have increased funds for more diverse projects to reduce bottlenecks and increase productivity in domestic industries.

- Expands the National Highway Freight Network
  - Includes rail terminals and port connections
  - Increases freight network from 27,000 miles to 41,000 miles to better connect major highways and roadways to intermodal
  - Includes Critical Commerce Corridors which uses a coordinated regional planning approach to create a seamless, multi-modal national system to improve the movement of freight throughout the nation
- Creates the National Highway Freight Program
  - \$6.3 billion over five years
  - Refocuses existing funds for highway freight projects
  - Apportions funds states by formula
- Creates the Nationally Significant Freight & Highway Projects Program
  - \$4.5 billion over five years
  - Competitive grant program
  - Distributes funds to projects that improve or enhance highway freight infrastructure by increasing connectivity among modes and reducing congestion
  - Requires analysis by states and metro areas of their freight movement and development of a multi-modal plan

### **Increasing Flexibility**

- Expands existing Surface Transportation Program into a block grant program
  - Based on the idea that most of the benefits of STP funds occur locally and that decisions about how such funds are obligated should be determined by state and local governments
  - Increases amount of STP funding distributed to local governments from 50 to 55 percent over life of bill
  - Allows use of funds for highways, bridges, tunnels and ferries
- Rolls the Transportation Alternatives Program into STP and allowing 50 percent of certain TAP funding sub-allocated to local areas to be used on any STP-eligible project

### **Environmental Streamlining and Permitting**

Bringing better coordination and predictability to the permitting process should translate into job creation, economic growth and new development.

- Establishes a permitting timetable, including intermediate and final completion dates for covered projects i.e. those over \$200 million or subject to federal permitting review requirements so they will benefit from enhanced coordination;

- Designates a Lead Agency to coordinate responsibilities among multiple agencies involved in project reviews to ensure that “the trains run on time”
- Provides for concurrent reviews by agencies, rather than sequential reviews
- Allows state-level environmental reviews to be used where the state has done a competent job, thereby avoiding needless duplication of state work by federal reviewers
- Requires that agencies involve themselves in the process early and comment early, avoiding eleventh-hour objections that can restart the entire review timetable
- Establishes a reasonable process for determining the scope of project alternatives, so that the environmental review does not devolve into an endless quest to evaluate infeasible alternatives
- Creates a searchable, online “dashboard” to track the status of projects during the environmental review and permitting process
- Reduces the statute of limitations to challenge a project review from six years to two years
- Requires courts, when addressing requests for injunctions to stop covered projects, to consider the potential negative impacts on job creation if the injunction is granted

### **Congestion Mitigation & Air Quality (CMAQ) Program**

- Allows use of funds for attainment of ambient air quality standards and to maintain standards in an attainment area
- Expands diesel retrofit program to include port-related off-road equipment and vehicles
- Exempts low-population-density states from PM 2.5 attainment requirements if the non-attainment area has no projects that are part of a transportation plan and vehicles are an insignificant contributor to PM 2.5 non-attainment

### **Work Zone Safety**

- Recognizes protecting construction workers and DOT employees from vehicle intrusions into highway work zones continues to be a challenge
- Directs FHWA to do all within its power to protect workers in highway work zones
- Requires rapid action to finalize regulations included in MAP-21

### **Bridges**

- Addresses deficient bridges through a set-aside for off-system bridges
- Expands funding available for on-system bridges located off the National Highway System
- Encourages States to bundle multiple similar bridge projects into one project that can be awarded a single contract

### **Other Highway Provisions**

- Reauthorizes current provisions of Disadvantaged Business Enterprises
  - Adjusts annual gross receipts limit for eligible DBE firms to \$24 million
  - Includes sense of Congress offered by Rep. Moore (WI), directing U.S. DOT to take additional steps and ensure state DOTs are complying with existing rules
- Continues Every Day Counts Program developing a new collection of market-ready innovations and best practices at least every two years
- Ends the ability of states to shift funds designated for Highway Safety Improvement Program (HSIP) to behavioral or educational activities, ensuring resources remain in construction related programs
- Designates several new safety improvements eligible for funding under HSIP to include vehicle-to-infrastructure communication and roadway improvements that provide separation between pedestrians and motor vehicles

## **Title II - Innovative Project Finance**

*Additional modifications were made to improve access to the Transportation Infrastructure Finance and Innovation credit assistance program.*

- Reduces Transportation Infrastructure Finance and Innovation credit assistance program from \$1 billion in FY15 to \$1.4 billion over five years
- Expands eligibility by allowing states to use National Highway Performance Program, STP block grant and NSFHP funds to pay the subsidy and admin costs associated with providing TIFIA credit assistance
- Promotes private investment in our surface transportation system
- Updates TIFIA to enable it to be better utilized by rural areas and more accessible for small projects by leveraging the ability of TIFIA to support state infrastructure banks
- Expands eligibility to transit-oriented development projects
- Reinstates the ability for states to capitalize their state infrastructure bank with their federal-aid highway funds for FY16-20

## **Title III - Public Transportation**

*The FAST Act includes reforms and provisions to improve and consolidate public transportation programs, increase flexibility for states and local governments to meet their transit needs and address transit safety.*

- Increases dedicated bus funding by 89 percent over the life of the bill
- Provides both stable formula funding and a competitive grant program to address bus and bus facility needs
- Reforms public transit procurement to make federal investment more cost effective and competitive
- Consolidates and refocuses FTA research activities to increase efficiency and accountability
- Establishes an innovative pilot program for communities seeking to expand transit service through the use of public-private partnerships
- Reduces the federal set aside for transit enhancement activities
- Provides flexibility for recipients to use federal funds to meet their state of good repair needs
- Provides for the coordination of public transit services with other federally assisted transportation services to aid in the mobility of seniors and individuals with disabilities
- Boosts investment from \$10.7 billion to \$12.6 billion by 2020
- Increases transit capital investment grants from \$1.9 billion annually to \$2.3 billion annually in FY16-20 through general fund and not HTF, so final amounts will be determined in appropriations process
- Allows for up to eight transit capital projects part of a public-private partnership and receiving less than 25 percent federal funds to be considered for fast-track approval
- Provides \$200 million for Positive Train Control upgrades from HTF

## **Title IV - Highway Traffic Safety**

*Reauthorizes highway traffic safety programs administered by the National Highway Traffic Safety Administration (NHTSA) for FY16-20 and makes reforms to help keep drivers, pedestrians and our roads safer.*

- Prioritizes emerging safety needs by enabling states to spend more funds on pressing safety needs specific to their state
- Improves safety by reforming the Impaired Driving Countermeasures, Distracted Driving and State Graduated Driver License incentive grants to reduce unreasonable barriers to state eligibility

## **Title V - Motor Carrier Safety**

*Reauthorizes programs of the Federal Motor Carrier Safety Administration (FMCSA) through 2020 and includes reforms to improve truck and bus safety, while reducing regulatory burdens.*

- Improves safety by the adoption of innovative truck and bus safety technologies and accelerates the implementation of safety regulations
- Reduces regulatory burdens by establishing a process under which the public or motor carrier industry can petition FMCSA to revise or repeal outdated, inconsistent or not enforced regulations

### **Reforms to FMCSA's Hours of Service**

- Permanently exempts ready mixed concrete drivers from the 30 minute break rule
- Allows ready mixed concrete drivers a logbook exemption that will increase the 12 hour on duty logging threshold to 14 hours in order to be consistent with the maximum on-duty period, which is aimed at improving the Paperwork Reduction Act without sacrificing safety
- Increases air-miles radius from 50 miles to 75 miles for transportation of construction materials and equipment to satisfy the 24 hour restart period, providing needed flexibility to complete transportation improvement projects without added costs or reduced public safety

## **Title VI - Transportation for Tomorrow**

*FAST Act continues most of the provisions in MAP-21 dealing with federal highway research, technology and education programs with only a few significant changes.*

- Funds most programs at same level as FY15 or includes a small increase
- Expands scope of Innovative Pavement Research and Deployment Program by developing a program to stimulate deployment of advanced transportation technologies to improve system safety, efficiency and performance
  - Grants used for advanced traveler information systems, transportation management technologies, public transit systems, safety including vehicle-to-vehicle communications
  - 50% federal share, with awards able to total up to \$60 million per year
- Reauthorizes Accelerated Implementation and Deployment of Pavement Technologies Program
  - \$12 million annually, \$6 million for asphalt and \$6 million for concrete, as in FY15
  - Encourages use of innovative pavement technologies in the field

- Expands the list of Intelligent Transportation System program goals to include enhancement of national freight system and support to national freight policy goals
- Creates a new Assistant Secretary for Research and Technology to coordinate departmental research and development activities, advance innovative technologies, development of comprehensive statistics and data and coordinate multimodal and multidisciplinary research
- Continues the University Transportation Centers program with increased funding from \$72.5 million in FY15 to \$77.5 million by FY19
- Directs Secretary to make grants to states to demonstrate alternative user-based revenue mechanisms that could maintain the long-term solvency of the HTF. Fifty percent federal share with funding up to \$15 million in FY16 and \$20 million per year after.

## **Title IX - National Surface Transportation and Innovative Finance Bureau**

*The FAST Act establishes this new entity within the U.S. DOT , with an executive director to be selected through a competitive process with presidential approval. The new bureau shall:*

- Provide state and local transportation agencies with assistance and best practices relating to project financing and funding
- Administer the application process for competitive grant and loan programs such as those for the Nationally Significant Freight and Highway Projects and TIFIA, and allocation of private activity bonds
- Reduce uncertainty and delays in environmental reviews and project permitting, through coordinating with other federal agencies, offering technical assistance and tracking NEPA-related reviews and decisions
- Promote best practices and tracking developments in project procurement “to reduce costs and risks to taxpayers.”