



Associated General Contractors of America
Fixing America’s Surface Transportation (FAST) Act

After many years of short-term extensions and funding patches, Congress has finally passed a 5 year, transportation authorization bill with sufficient revenue to provide annual funding increases for highway and transit construction programs. The legislation, known as the Fixing America’s Surface Transportation Act - aka the FAST Act, was signed into law by President Obama on December 4, 2015 following strong bipartisan/bicameral support - 359 to 65 in the House, and 83 to 16 in the Senate. This is the first long-term transportation authorization bill since 2005. This will give states the certainty they need to plan long term and prioritize projects according to need rather than availability of funding. States will now be able to focus on needed capital improvement projects rather than maintenance. In addition to funding, the legislation makes many policy improvements that will allow transportation projects to move through the planning and environmental review process more quickly.

The FAST Act provides highway funding of \$221.5 Billion over the next five years with a 5 percent increase in fiscal year 2016 followed by funding increases of just over 2 percent per year through 2020. Transit funding jumps 10 percent in FY 2016 but remains relatively flat in subsequent years. Unfortunately the Act does not increase the gas tax or create any new revenue source for the Highway Trust Fund but instead continues the trend of general fund transfers off set with non-transportation revenue allowing the Act to be fully funded through the five year period. The Act directs highway and transit authorization levels to increase automatically should Congress take action to increase Highway trust Fund revenue.

. The year-by-year funding levels are below.

	2015 (Current)	2016	2017	2018	2019	2020	5 Year
Highway Total	\$40.256 B	\$42.361 B	\$43.266 B	\$44.234 B	\$45.268 B	\$ 46.365 B	\$ 221.495 B
Formula to States (of Total)	\$37.798 B	\$39.727 B	\$40.548 B	\$41.424 B	\$42.359 B	\$43.373 B	\$207.432 B
TIFIA	\$ 1.00 B	\$275 M	\$275 M	\$285 M	\$300 M	\$300 M	\$1.435 B
NSFHP (grants)		\$800 M	\$850 M	\$900 M	\$950 M	\$1.00 B	\$4.500 B
Transit Formula	\$8.595 B	\$9.347 B	\$9.733 B	\$9.733 B	\$9.939 B	\$10.150 B	\$48.705 B
Transit Capital Grants	\$2.12 B	\$2.301 B	\$2.301 B	\$2.301 B	\$2.301 B	\$2.301 B	\$11.505 B

State year by Year Funding Charts and state programmatic funding levels are available [here](#).



Highway Program

The National Highway Performance Program (NHPP) – Consistent with MAP-21, the NHPP provides support for the condition and performance of the National Highway System (NHS), for the construction of new facilities and to ensure that investments of Federal-aid funds in highway construction are directed to support progress toward achievement of performance targets established in a State’s asset management plan for the NHS. NHPP receives the greatest percentage of apportioned funds under the DRIVE Act.

Surface Transportation Block Grant Program (STBGP) – The existing Surface Transportation Program (STP) is converted to a block grant program, giving states more flexibility in the use of these funds but increasing the amount going to local governments from 50 percent to 55 percent over the life of the bill. The FAST Act maintains the off system bridge set-aside of \$777 million annually. The existing **Transportation Alternatives Program** is made part of the STBGP and is funded at \$835 million in the first two years and \$850 million in the last three (rather than a percent of the STP funds as it was previously funded). Project eligibility continues to include bike trails and transit oriented projects but is also expanded to include local transportation safety initiatives.

Congestion Mitigation and Air Quality (CMAQ) – The FAST Act makes several small changes to CMAQ. These changes include: expanding the diesel retrofit program to equipment and vehicles that are port-related; exempting low-population states from PM 2.5 attainment requirements in certain instances; and allow for the use of CMAQ funds to be used not only for attainment of ambient air quality standards but also to maintain standards in an attainment area.

Highway Safety Improvement Program – The FAST Act eliminates the current eligibility for HSIP funds to be used for non-infrastructure safety program, such as education and enforcement activities.

National Highway Freight Program (NEW): The National Highway Freight Program funded at \$1.26 billion per year distributed to states by formula for highway freight improvement projects. This is funding is intended to direct more resources to freight movement. States, in cooperation with US DOT are directed to designate a national freight network consisting of all Interstates, an additional 41,000 primary freight network highway miles. States are required to use 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. States can use up to 10 percent of these funds for intermodal and freight rail projects.

National Significant Freight and Highway Projects (NSFHP) (NEW) – The National Significant Freight and Highway Projects (NSFHP) program is created with funding starting in FY 2016 at \$800 million increasing to \$1 billion in FY 2020. These are competitive grants and authority for selecting projects to receive the grants is administered by the FHWA. Projects that cost the minimum of at least \$100 million, 30 percent of a state’s apportioned total, are eligible. In addition, 10 percent of total funding is reserved for small projects and 25 percent is set aside for rural projects. Multimodal, non-highway projects are eligible for grants but a cumulative \$500 million cap on these type projects over the five year authorization is set. 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. Congress retained the authority to veto any projects proposed for this grant funding.



Transportation Infrastructure Finance and Innovation Act (TIFIA) - The legislation provides funding for the TIFIA credit assistance program starting at \$275 million in FY 2016 and increasing to \$300 million. While this program had been authorized at \$1 billion in FY 2015 that level of assistance has not been fully used. The Act allows unused previous funds to be carried over to be used in the TIFIA program. TIFIA was amended to allow it to be used in conjunction with the new Nationally Significant Freight and Highway Projects program. TIFIA can now be for transit-oriented development projects and to capitalize Rural Project Funds.

Tolling- The existing Interstate System Reconstruction and Rehabilitation Pilot Program, which allowed three states to test tolling on existing interstate routes is revised to limit to three years the amount of time a state eligibility is available. If not used within the three year limit other states can apply for that slot.

State Infrastructure Banks – The Act allows states to capitalize State Infrastructure Banks with Federal-aid highway formula dollars.

National Surface Transportation and Innovative Finance Bureau – This office is created within USDOT to share best practices, share funding and financing opportunities, promote innovative financing, look for ways to reduce funding uncertainty and reduce costs to tax payers.

Environmental Streamlining- Project Delivery: The Act retains the improvements in the environmental review and planning process to expedite project delivery made in MAP-21 and adds new reforms.

The Act makes numerous changes that allow more projects to be included as “Categorical Exclusions” (CE) which is a far quicker and less involved environmental review. The Act included multi-modal projects and rail projects as CEs and indexes to inflation the size of projects that can be covered by a CE.

The Act allows states that have opted to take responsibility for the Federal NEPA environmental review (California and Texas so far with several other applying) to use their own state environmental process as long as it's as stringent as the NEPA process.

US DOT and other Federal lead agencies are given more authority to set schedules, deadlines and establish more coordination between agencies with review responsibilities. The Act also aligns environmental reviews for historic properties.

The Act allows for actions and reviews taken during the planning stage to be used to satisfy requirements during the environmental stage. Also limits the need to consider project alternatives during the environmental process if they have been considered during the planning process.

Regulatory requirements under NEPA and other federal regulations for the repair or reconstruction of a bridge, road, highway railway or transit facility damaged by an emergency can either be waived or expedited.

The Act allows states to bundle similar bridge projects into one project and award as a single



contract.

Hours of Service: The Act expands the current exemption to the hours-of-service rule for drivers transporting construction materials and equipment, allowing those operating within a 75-mile radius to restart the weekly driving limit after 24 hours of rest, rather than 35 hours, which is the standard for other drivers. Ready mix concrete delivery drivers are exempted from logging requirements and 30 minute break requirements if they operate within a 100-mile driving radius.

Other FAST Act provisions of interest to the construction industry:

Creates a new requirement for states to provide an annual report on all projects over \$25 million comparing the estimated cost at the beginning of the project with its final cost and includes an explanation about revisions in scope or other factors impacting project costs or overruns.

Expresses a “Sense of the Congress” that FHWA should do all within its power to protect workers in highway work zones and finalize regulations expanding the use of positive barriers in highway work zones.

Every Day Counts Initiative is made permanent with the intent of encouraging sharing of information on innovative practices and products that accelerate innovation deployment, shorten delivery process, improve sustainability, enhance roadway safety and reduce congestion

Provides funding of \$15 million in 2016 and \$20 million annually in FYs 2017-2020 for grants to states to demonstrate user based alternative revenue mechanisms that utilize a user fee structure to maintain the long term solvency of the highway trust fund.

Directs the USDOT, Transportation Research Board (TRB) and National Academies to cooperatively study actions needed to upgrade and restore Interstate System to its roles as premier system that meets the growing and shifting demands of 21st century.