



FIXING AMERICA'S SURFACE TRANSPORTATION (FAST) ACT

By: Paul Frisman, Principal Analyst

ISSUE

This report provides a brief summary of the "Fixing America's Surface Transportation (FAST) Act," (HR 22). President Obama signed the bill into law on December 4, 2015. Sources for the summary include the act, the joint explanatory statement of the conference committee, and summaries and analyses by the U.S. Department of Transportation (USDOT), the American Society of Civil Engineers, the American Association of State Highway Officials (AASHTO), the American Road and Transportation Builders Association (ARTBA), and the National Association of Railroad Passengers (NARP). We also include some concerns about the act raised by AASHTO, whose members include state departments of transportation, including Connecticut's.

SUMMARY

The FAST Act provides \$305 billion in federal funding for transportation projects over five federal fiscal years (FFYs 2016 to 2020). It is the first long-term comprehensive transportation law since 2005.

The act includes \$225.2 billion for highway investment, a \$20.2 billion funding increase over the 2015 funding level over the five year period. According to an ARTBA analysis, about half the increase (\$10.7 billion) will support two new highway freight programs. The rest provides a small annual increase in core highway program funding to offset projected inflation.

States will get about a 5.1% increase in funding in FFY 16 and annual increases ranging from 2.1% to 2.4% in subsequent years.



The FAST Act also provides \$61 billion over five years for federal transit programs and \$10 billion over that period for the Federal Railroad Administration and Amtrak.

Connecticut will receive about \$3.5 billion over five years, or about \$700 million annually for highway and transit programs, which is about \$62 million more per year than Connecticut received in 2015. Table 1, below, shows annual FAST Act funding levels for Connecticut’s highway and public transit programs.

Table 1: FAST Act Funding for Connecticut, FFY 2016-2020 (in \$ millions)

Programs	FFY Funding						Total FFY 2016-20	Average FFY 2016-20
	2015 (Current Level)	2016	2017	2018	2019	2020		
Highway Programs	\$484.8	\$509.5	\$520	\$531.2	\$543.2	\$556.2	\$2,660.2	\$532
Public Transit Programs	157.7	166.7	169.5	172.2	175.5	178.4	862.4	172.5
Total Fast Act Funding (5 years)	NA	676.2	689.5	703.4	718.7	734.6	3,522.6	704.5

The state Department of Transportation (DOT) says FAST Act’s importance isn’t in the amount of money it provides, which does not change dramatically from previous levels, but in the predictability and assurance of funding the act provides.

HIGHWAY PROVISIONS

Highway Trust Fund

The FAST Act transfers \$51.9 billion into the federal Highway Trust Fund’s (HTF) highway account and \$18.1 billion into its mass transit account over the act’s five years. The HTF, which is funded through federal gas, diesel, and other motor fuel taxes, pays for highway and mass transit projects.

The FAST Act’s transfer of the \$70 billion into the HTF is needed to keep the HTF solvent. The federal government has not increased the federal 18.4 cent gas tax in more than 20 years, and this has reduced the HTF’s purchasing power and reduced its ability to keep pace with rising infrastructure costs and inflation. Decreased revenues because of more fuel efficient vehicles and the popularity of alternative fuel vehicles also cloud the HTF’s future.

But ARTBA calls the fund transfer a “temporary fix.” “Without a permanent increase in excise taxes or a new revenue source, the HTF will exhaust funds provided by the FAST Act by the end of 2020,” it says.

FAST Act Highway Programs

According to ARTBA, the FAST Act generally retains the same funding structure as its predecessor, MAP-21. Some of the changes it makes include two new freight initiatives:

- The **National Freight Program** authorizes \$6.2 billion over five years for national and state projects to improve highway freight transportation. To participate, a state must complete a State Freight Plan, which it must update every five years. ARTBA says participating states will be able to obligate up to 10% of this funding to improve freight rail services or ports.
- **Nationally Significant Freight and Highway Projects.** The act authorizes about \$900 million annually for grants of at least \$25 million for highway, bridge, rail-grade crossing, intermodal, and freight rail projects that cost at least \$100 million, improve movement of both freight and people, reduce bottlenecks, and improve connectivity. Ten percent of the total funding is reserved for small projects and 25% for rural projects; there is a \$500 million limit on non-highway intermodal projects.

FAST Act also makes changes to several highway programs:

- **National Highway Performance program.** The act allows states two additional uses of funds for this program, which focuses on maintaining and improving the federal interstate system and other major highways: paying subsidy and administrative costs of Transportation Infrastructure Finance and Innovation Act (TIFIA) projects (see below) and improving bridges that are not on the National Highway System.
- **Surface Transportation Block Grant program** (formerly the **Surface Transportation Program (STP)**). The act converts the STP to a block grant program, and expands how surface transportation program funds can be used for local roads and rural minor collector roads. As did MAP-21, it requires that a fraction of funds be distributed in each state on the basis of population. The FAST Act increases this fraction from 50% in FFY 2015 to 55% in FFYs 2020 and 2021.
- **Transportation Alternatives.** FAST Act changes the funding level for this program, which supports a variety of pedestrian, bicycling, and environmental activities, from 2% of annual apportionments (about \$820 million a year) to a flat \$835 million in FFYs 16 and 17, and \$850 million through the act's later years. The act also extends eligibility to nonprofit organizations that administer local transportation safety programs, and requires annual reports from state and local planning organizations. It requires states to invest the same amount in recreational trails as they did in 2009 but allows them to opt out of the program.

- **Highway Design Standards.** The act adds AASHTO's *Highway Safety Manual* and the National Association of City Transportation Officials' *Urban Street Design Guide* to the resources to be considered when developing highway and street design criteria. It allows local entities receiving federal funds to use design manuals different from those the state uses.
- **Congestion Mitigation and Air Quality Improvement program.** This program focuses on reducing traffic jams and improving air quality, with a focus on states and areas that do not meet air quality standards. ARTBA says FAST Act makes only a few changes, including allowing funds to be used to maintain air quality standards in attainment areas and expanding the diesel retrofit program to include port-related off-road equipment and vehicles.
- **Highway Safety Improvement program.** The FAST Act ensures that resources for this program, which seeks to reduce the incidence of serious traffic accidents, remain in construction-related programs by ending states' ability to shift funds designated for infrastructure safety projects to behavioral or educational activities.
- The FAST Act substantially reduces **TIFIA** funding in FFY 16 from \$1 billion a year to \$275 million, but gradually increases it to \$300 million in FFYs 19 and 20. It expands the range of eligible transportation projects to include Transit Oriented Development projects, among others, and streamlines the application process. TIFIA provides federal financial assistance to eligible transportation projects.

ARTBA notes that FAST Act, to increase efficiency and speed up the project review process, encourages the use of a single environmental review document throughout the entire review process, instead of the current practice of having each agency involved in a project conduct a separate review. It also prohibits regulatory issues resolved early in the process from being raised again later, and creates specific deadlines to reduce delays reviewing and approving a project.

Bridges

The FAST Act streamlines the environmental review process for bridge repair projects by exempting certain bridges from individual review (this was done by regulation in 2012; the act makes these changes permanent). It also encourages states to "bundle" similar bridge projects into one project to be awarded a single contract.

Tolling

A Federal Highway Administration pilot program permits up to three states to toll existing Interstate highways that they could not otherwise adequately maintain or improve. The FAST Act requires that states already approved for this program meet certain milestones within one year of the Act's enactment or forfeit their "slot." (The states may also ask for a one-year extension.) States that receive new provisional

approval to take part in this program have three years to meet those milestones or request a one year extension.

The act also:

- encourages states to increase safety awareness of commercial motor vehicles;
- requires a study of the feasibility of developing an impairment standard for people who drive under the influence of marijuana;
- promotes innovative technologies to improve management of traffic congestion;
- requires state long-range transportation plans to consider public ports and freight shippers;
- prevents rental car firms with fleets of more than 35 vehicles from renting vehicles that have been recalled but not yet repaired;
- triples, from \$35 million to \$105 million, the maximum amount the National Highway Traffic Safety Administration can penalize car manufacturers for violating motor vehicle safety standards;
- extends, from 10 years to 15 years, the time in which automakers must make recall repairs, and doubles, from five to 10 years, the amount of time car makers must retain safety records;
- broadens a car manufacturer's recall obligations in the event of bankruptcy;
- encourages car industry employees to reveal possible motor vehicle safety violations; and
- provides \$5 million for a study on steps needed to upgrade and repair Interstate highways over the next 50 years.

PUBLIC TRANSPORTATION

The FAST Act increases funding for public transportation from the current \$10.7 billion to \$12.6 billion by FFY 2020. It increases funding for the Capital Investment program, which funds major capital investments in rail, bus, and ferries, from \$1.9 billion in FFY 15 to \$2.3 billion by the end of the act.

According to ARTBA, federal investment in public transportation increases 10.4% in FFY 16, followed by annual increases of 1.6% to 1.7% over the next four years. These investment levels exceed projected inflation by \$700 million over the next five years.

Rail Systems

For rail projects, the act:

- speeds up environmental review for proposed projects;
- raises the liability cap on passenger rail accidents from \$200 million to \$295 million and makes this increase retroactive to the May 12, 2015 Amtrak crash in Philadelphia in which eight people died;
- according to a NARP analysis, provides \$1.1 billion over five years for safety improvements, including Positive Train Control systems, rail grade crossing improvements, and rail integrity inspection systems;
- provides \$100 million over five years to restore and enhance passenger rail service;
- provides \$2.6 billion to Amtrak's Northeast Corridor (NEC) and \$5.4 billion to other Amtrak lines over five years. It separates the NEC (from Boston to Washington, D.C) from other Amtrak accounts to ensure that the amounts assigned to the NEC are used there; and
- requires Amtrak to permit passengers to carry small dogs and cats in pet carriers on certain trains.

Bus Lines

Among other things, the FAST Act:

- increases dedicated bus funding by 89% over the life of the act,
- establishes competitive grant programs to address bus and bus facility needs, and
- creates a pilot program for communities to expand transit through the use of public-private partnerships.

AASHTO'S CONCERNS

AASHTO's members include the departments of transportation of the 50 states, Puerto Rico, and the District of Columbia. An AASHTO two-page summary of FAST Act includes the following "challenges:"

- "Average annual funding for highways and transit under FAST is \$57.5 billion. Adjusted for inflation, FAST will fall about \$16 billion short of what HTF's

annual purchasing power provided through federal programs was in 1993, the last time federal highway user fees were increased.”

- “Long-term, sustainable funding for transportation is yet to be achieved. Because the bill relies on \$70 billion of General Fund support, the expected annual gap between HTF income and spending in 2021 is expected to reach \$20 billion.”
- “The bill contains language to rescind \$7.6 billion of highway program contract authority in July 2020. This provision will greatly restrict states’ ability to program federal dollars.”
- “While new research activities are mandated, because commensurate increase in funding was not provided, existing research programs will face funding constraints.”
- “Highway safety funding has become more restrictive, rendering support for educational activities ineligible under the Highway Safety Improvement Program.”

MORE INFORMATION ON FAST ACT

The USDOT’s summary of the FAST Act can be found at:

https://www.fhwa.dot.gov/fastact/fast_act_overview_20160107.pdf.

An AASHTO briefing on the act is available at:

<http://fast.transportation.org/Documents/2016-01-07%20AASHTO%20Briefing%20on%20FAST%20Act%20FINAL.pdf>.

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