

# POLICY BRIEF



**COLORADO**  
Department of Transportation  
Office of Policy and Government Relations

January 2016

## FAST Act Summary

### BACKGROUND

On December 4, 2015, President Obama signed into law the Fixing America's Surface Transportation (FAST) Act. The FAST Act authorizes Federal highway, transit, and rail programs for five years from 2016 to 2020 and represents the first long-term comprehensive surface transportation legislation since 2005.

The FAST Act is a five year (FY 2016 - FY 2020) \$300 billion highway, transit, highway safety and rail bill. It provides approximately \$225 billion in contract authority over five years for the Federal-aid Highway program, increasing funding from \$41 billion in FY 2015 to \$47 billion in FY 2020. The bill continues to distribute nearly 93 percent of all Federal-aid Highway program contract authority to State DOTs through formula programs. The bill creates a new National Highway Freight program (approximately \$1.2 billion a year) that is distributed to the States by formula and creates a new discretionary program for Nationally Significant Freight and Highway Projects (approximately \$900 million a year). The FAST Act gradually increases the percentage of the Surface Transportation Program that is suballocated by population from 50 percent in FY 2015 to 55 percent in FY 2020. The bill also includes a \$7.6 billion rescission of unobligated Federal-aid Highway contract authority in FY 2020.

The FAST Act provides approximately \$61 billion over five years for Federal transit programs, including \$48.9 billion in Highway Trust Fund contract authority and roughly \$12 billion in funding from the General Fund. For highway safety the bill provides \$4.7 billion for NHTSA (\$3.7 from the HTF) and \$3.2 billion for the Federal Motor Carrier Safety Administration. The FAST Act authorizes approximately \$10 billion over five years for the Federal Railroad Administration and Amtrak.

For Colorado, the bill increases highway formula funding from \$516 million in 2015 to \$542 million in 2016 and grows to \$592 million in 2020. Overall, this represents an increase of about \$250 million over MAP-21 funding levels over the five years of the bill. On the transit side, funding increases from \$111.5 million in 2015 to \$114.6 million in 2016 and grows to \$124.8 million in 2020. Overall, this represents an increase of about \$40 million over MAP-21 funding levels over the five years of the bill.

This Policy Brief provides a high-level summary of key components of the FAST Act by broad subject area. This summary is based on the best information available at this time, but is subject to change based on final guidance and/or rule-making by USDOT, FHWA, FTA, and FRA.

For questions regarding the FAST Act, please contact Ron Papsdorf at [ron.papsdorf@state.co.us](mailto:ron.papsdorf@state.co.us) or you may reach him by phone at 303-757-9105 (office) or 503-793-5023 (cell).

# POLICY BRIEF

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

### Funding Summary for Colorado

| Highway Programs                                | 2016                 | 2017                 | 2018                 | 2019                 | 2020                 | Total                  |
|---|----------------------|----------------------|----------------------|----------------------|----------------------|------------------------|
| National Highway Performance Program            | \$297,705,132        | \$304,312,514        | \$310,098,755        | \$316,507,189        | \$323,099,910        | \$1,551,723,500        |
| Surface Transportation Block Grant Program      | \$137,015,364        | \$140,516,942        | \$143,558,486        | \$146,342,615        | \$149,830,157        | \$717,263,564          |
| Surface Transportation Block Grant Set-aside    | \$10,486,329         | \$10,486,329         | \$10,703,299         | \$10,703,299         | \$10,703,299         | \$53,082,555           |
| STBGP Set-aside:<br>Recreational Trails Program | \$1,591,652          | \$1,591,652          | \$1,591,652          | \$1,591,652          | \$1,591,652          | \$7,958,260            |
| Highway Safety Improvement Program              | \$29,431,653         | \$30,085,816         | \$30,649,742         | \$31,201,622         | \$31,834,485         | \$153,203,318          |
| Railway-Highway Crossings Program               | \$3,236,539          | \$3,308,462          | \$3,380,386          | \$3,452,309          | \$3,524,232          | \$16,901,928           |
| CMAQ Program                                    | \$42,132,383         | \$43,067,485         | \$43,886,376         | \$44,689,751         | \$45,597,422         | \$219,373,417          |
| Metropolitan Planning                           | \$5,266,924          | \$5,373,578          | \$5,486,478          | \$5,604,275          | \$5,734,725          | \$27,465,980           |
| National Freight Program                        | \$15,546,723         | \$14,870,779         | \$16,222,667         | \$18,250,501         | \$20,278,334         | \$85,169,004           |
| <b>Total</b>                                    | <b>\$542,414,715</b> | <b>\$553,615,574</b> | <b>\$565,579,859</b> | <b>\$578,345,232</b> | <b>\$592,196,236</b> | <b>\$2,832,151,616</b> |

| Transit Programs  | 2016                 | 2017                 | 2018                 | 2019                 | 2020                 | Total                |
|---|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| 5303: Metropolitan Planning                                     | \$1,807,282          | \$1,844,151          | \$1,882,878          | \$1,922,795          | \$1,963,558          | \$9,420,664          |
| 5304: Statewide Planning  | \$372,263            | \$379,857            | \$387,834            | \$396,056            | \$404,452            | \$1,940,462          |
| 5307+5340: Urbanized Area Formula                               | \$74,345,208         | \$75,863,206         | \$77,506,323         | \$79,505,365         | \$81,219,297         | \$388,439,399        |
| 5329(3): State Safety Oversight Program                         | \$536,630            | \$547,362            | \$558,857            | \$570,704            | \$582,803            | \$2,796,356          |
| 5310: Enhanced Mobility for Adults and People with Disabilities | \$3,781,419          | \$3,857,047          | \$3,938,045          | \$4,021,532          | \$4,106,788          | \$19,704,831         |
| 5311+5340: Non-urbanized Area Formula                           | \$11,158,622         | \$11,408,398         | \$11,674,316         | \$11,948,201         | \$12,228,030         | \$58,417,567         |
| 5311(b)(3): RTAP  | \$158,456            | \$161,625            | \$165,019            | \$168,518            | \$172,090            | \$825,708            |
| 5311(c)(1): Indian Reservation Formula                          | \$182,995            | \$182,995            | \$182,995            | \$182,995            | \$182,995            | \$914,975            |
| High Intensity Fixed Guideway                                   | \$13,880,464         | \$14,116,715         | \$14,360,514         | \$14,607,801         | \$14,859,341         | \$71,824,835         |
| High Intensity Motor Bus  | \$420,108            | \$427,258            | \$434,634            | \$442,121            | \$449,735            | \$2,173,856          |
| 5339: Bus and Bus Facilities Formula                            | \$6,225,267          | \$6,382,263          | \$6,550,237          | \$6,723,078          | \$6,899,443          | \$32,780,288         |
| 5339: Statewide Allocation                                      | \$1,750,000          | \$1,750,000          | \$1,750,000          | \$1,750,000          | \$1,750,000          | \$8,750,000          |
| <b>Total</b>  | <b>\$114,620,730</b> | <b>\$116,922,894</b> | <b>\$119,393,670</b> | <b>\$122,241,185</b> | <b>\$124,820,552</b> | <b>\$597,988,941</b> |

Note: Estimates are Pre-Obligation Limitations

# POLICY BRIEF

## **SURFACE TRANSPORTATION BLOCK GRANT PROGRAM**

The FAST Act changes the name of the Surface Transportation Program to the Surface Transportation Block Grant Program (STBGP). Along with the name change come other important updates:

- Increased local funding: Currently, 50 percent of STP funding is sub-allocated to local areas by population. Under FAST Act's new STBGP, this gradually increases to 55 percent over the course of the five-year bill.
- Transportation alternatives: Under current law, the Transportation Alternatives Program (TAP) is a standalone program for funding bike, pedestrian, and other alternative projects. FAST Act deletes the existing federal authorization for TAP and moves it into the STBGP as a set-aside. TAP is currently funded at \$820 million annually; FAST increases that figure to \$835 million in FY 2016 and FY 2017 and then to \$850 million per year.
  - Must use competitive process to allocate the funds.
  - MPOs over 200,000 may flex up to 50% of STP Set Aside for use on any STBGP-eligible project.
  - Adds requirement that MPOs must distribute funds 'in consultation with State'.
- The off-system bridge set-aside is retained under the STBGP, funded at \$777 million per year. Colorado funding under this program is approximately \$10.5 million per year.
- Maintains all existing eligibilities of old STP program and adds several new eligibilities:
  - Safe Routes to Schools
  - Boulevards and other roadways largely in the right-of-way of former Interstate routes or other divided highways
  - Workforce development, training, and education
  - Projects that facilitate direct intermodal interchange, transfer, and access into and out of a port terminal
  - Costs associated with providing Federal Credit Assistance (TIFIA)
  - Public Private Partnerships

## **HIGHWAY TRAFFIC SAFETY**

- A State in which an automated traffic enforcement system is installed shall expend apportioned Highway Safety Program funds to conduct a biennial survey that includes: a list of automated traffic enforcement systems in the State; adequate data to measure the transparency, accountability, and safety attributes of each automated traffic enforcement system; and a comparison of each automated traffic enforcement system with Speed Enforcement Camera Systems Operational Guidelines and Red Light Camera Systems Operational Guidelines.
- Within 1 year, the Secretary, in consultation with the heads of other Federal agencies as appropriate shall conduct a study on marijuana-impaired driving. The study will examine:
  - Methods to detect marijuana-impaired driving.
  - A review of impairment standard research for driving under the influence of marijuana.
  - Methods to differentiate the cause of a driving impairment between alcohol and marijuana.
  - State-based policies on marijuana impairment.
  - The role and extent of marijuana impairment in motor vehicle accidents.

# POLICY BRIEF

## FREIGHT

In general, the FAST Act places additional emphasis on freight planning and freight movement. It creates a National Multimodal Freight Policy, to be administered by the US Department of Transportation Undersecretary for Policy, to improve the condition and performance of the National Multimodal Freight Network (NMFN).

- States are encouraged to form State Freight Advisory Committees and mandates that all States receiving National Highway Freight Program formula funds create a State Freight Plan (SFP) within two years of enactment and updated every five years.
- The Act also establishes a National Highway Freight Network (NHFN) consisting of:
  - A primary highway freight network (PHFN) of 41,518 miles already identified by FHWA.
  - Critical Rural Freight Corridors.
    - Must meet minimum criteria
    - No more than 150 miles in Colorado
  - Critical Urban Freight Corridors.
    - Designated by MPOs over 500,000 in consultation with the State, or
    - By the State in consultation with MPOs with less than 500,000 population
    - No more than 75 miles in Colorado
  - Any portion of the interstate system not include above.
- Creates a new formula distribution National Freight Program that will provide Colorado with approximately \$85 million over five years for freight infrastructure improvements. In general, formula funds are used “to improve the movement of freight on the National Highway Freight Network.”
  - Each State’s formula distribution is based upon the number of Primary Highway Freight System (PHFS) miles in that State relative to all PHFS miles. For States whose formula proportion is greater than or equal to two percent, it may obligate funds to any of the NHFN elements except for interstates that are not part of the PHFS. For States whose formula proportion is less than two percent, it may obligate funds to any segment of the NHFN, including all interstates.
  - Colorado is a “low primary highway freight system mileage” state so is eligible to use funds for projects on any component of the NHFN and not just the PHFN.
- Creates a new \$800 million per year (grows to \$1 billion in 2020) Nationally Significant Freight and Highway Projects Program that will provide grants to highway, bridge, rail-grade crossing, intermodal and freight rail projects costing more than \$100 million. The program allows up to \$500 million to be allocated to freight rail and/or intermodal projects.
  - Except as otherwise provided, each grant shall be at least \$25m.
  - 10% of grant funding is reserved each fiscal year for projects that do not satisfy the minimum project cost thresholds. Each small project grant shall be at least \$5m.
  - The Secretary shall reserve at least 25% of funds (including amount for small projects) each fiscal year for grants in rural areas. Rural area means an area outside an urbanized area with a population over 200,000.
  - Federal Share: The Federal share of a project assisted with a grant under this program may not exceed 60%. Other Federal assistance may be used to satisfy the non-federal (40%) share of a project except that the total Federal assistance may not exceed 80% of the total project cost.

# POLICY BRIEF

## TRANSIT

- Improvements to landscaping and streetscape must be ‘functional’ to be eligible as an associated transit improvement.
- Bicycle storage shelters and parking facilities and the installation of equipment are eligible.
- Plans and TIPs for each Metro Area shall provide for intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities and commuter vanpool providers.
- Transportation plans must include the identification of intercity bus facilities.
- Fixed Guideway Capital Investment Grants:
  - Removes weekend service requirement for corridor-based bus rapid transit projects.
  - Increases maximum size of small start grant from \$75 million to \$100 million and the maximum size of small start project from \$250 million to \$300 million.
  - Redefines Corridor-Based Bus Rapid Transit Project to mean a small start project that emulates rail fixed guideway systems, the majority of which does not operate in a separated right-of-way dedicated for public transportation use during peak periods.
- Creates a new pilot program for innovative coordinated access and mobility to provide grants for innovative projects that improve the coordination of transportation services and non-emergency medical transportation (including the deployment of technology).
- Grants or loans may not be used to pay incremental costs of incorporating art or non-functional landscaping into facilities, including the costs of an artist on the design team.
- Re-creates a competitive grant bus program which includes a 10% rural set-aside and a cap that not more than 10% of all grant amounts can be awarded to a single grantee.
  - Allows States to submit statewide applications for bus needs, which would allow the State to distribute competitively awarded funds.
  - The competitive bus program includes \$55 million annually for no/low emission buses and grows from \$268 million in 2016 to \$344 million by 2020.
  - Each State will receive \$1.75 million each fiscal year in formula grants.
  - Non-Federal share may be provided from revenues generated from value capture financing mechanisms.
  - Creates a new pilot program under which an eligible recipient of formula grant funds in an urbanized area with population of not less than 200,000 and not more than 999,999 may elect to participate in a State pool.
    - The purpose of a State pool is to allow transfers of formula grant funds among the designated recipients in a manner that supports their transit asset management plans.
    - A State, and eligible recipients in the State, may submit to the Secretary a request for participation in the program.
    - A participating State shall develop an allocation plan for FY 2016 through 2020 to ensure that an eligible recipient participating in the pool receives an amount that equals the amount that would have otherwise been available.

# POLICY BRIEF

## PASSENGER RAIL

For the first time, Amtrak funding is separated into the Northeast Corridor and the National Network. The bill directs the creation of at least two distinct accounts for the Northeast Corridor and the National Network to assign all revenues, appropriations, grants and other forms of financial assistance, compensation, and other sources of funds, including operating surplus, commuter payments and state payments. If Amtrak determines that a transfer between the accounts is necessary, Amtrak may transfer funds between the Northeast Corridor and National Network accounts if Amtrak notifies the Amtrak Board of Directors, including the Secretary, at least 10 days prior to the expected date of transfer.

The National Network is funded at \$5.454 billion over five years while the Northeast Corridor is funded at \$2.596 billion.

## PLANNING AND PERFORMANCE MANAGEMENT

The FAST Act makes no significant changes to the performance-based planning and programming policy requirements included in MAP-21. This includes no new national-level performance measures beyond what is currently being developed through the Federal rule-making process. The Act does change to a “shall” regarding the inclusion of description of performance measures and the system performance report in a State’s long-range transportation plan.

The Act also includes new provisions to enable the USDOT to better support State DOTs, MPOs, and FHWA in the collection and management of data for performance-based planning and programming. This includes data analysis activities related to vehicle probe data, household travel behavior data, travel demand model data and performance management prediction tools. These data-related activities are funded at \$10 million per year nationally over the duration of the FAST Act.

- Each metropolitan planning organization is encouraged to consult with officials responsible for other types of planning activities that are affected by transportation in the area (including State and local planned growth, economic development, ***tourism, natural disaster risk reduction***, environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities.
- The metropolitan planning process for a metropolitan planning area shall provide for consideration of projects and strategies that will ***“improve resiliency and reliability of the transportation system”*** and reduce or mitigate stormwater impacts of surface transportation.
- Directs planners to include considerations to enhance travel and tourism.
- Emphasize intermodal transfer facilities and accessibility effects of intercity bus services and facilities.
- ‘Private transportation’ should include consideration of intercity bus operators and employer-based commuting programs.

## ENVIRONMENTAL REVIEW

The project delivery provisions in the FAST Act contain many important streamlining measures. The Act requires USDOT to allow States to assume Federal responsibility for project design, plans, specifications, estimates, contract awards and inspection of projects, to the maximum extent practicable. The Act also allows USDOT operating administrations to adopt the NEPA environmental documents and assessments developed by other operating administrations. It expands the multimodal categorical exclusion established in MAP-21 to

# POLICY BRIEF

provide the authority for any DOT operating administration to use a CE of another operating administration.

- Exempts ‘common post-1945 concrete steel bridge or culvert’ from individual review.
- Establishes a 45 day response time for comments from cooperating agencies.
- Requires lead agency to prepare a ‘complete’ document including permits.
- Accelerated decision making in environmental reviews.
  - Allows errata sheets.
  - Single document for FEIS and ROD to the extent practicable and consistent with Federal law.
  - Requires Secretary to make publicly available no later than 18 months after bill’s enactment the status and progress of projects requiring an EA or EIS and the names of participating agencies not participating in development of project purpose and need and range of alternatives.
- Participating agencies shall limit their comments to subject matter areas within the special expertise or jurisdiction of the agency.
- The lead agency may eliminate from detailed consideration an alternative proposed in an EIS regarding a project if the alternative was considered in a metropolitan planning process or a State environmental review process by an MPO or a State or local transportation agency under certain circumstances.
- Allows lead agency or cooperating agency to adopt or incorporate by reference an entire planning product for use in NEPA under certain conditions.

## DESIGN AND PROJECT DELIVERY

- Creates an option to bundle small bridge projects to increase efficiency. Projects bundled under this subsection shall have the same financial characteristics, including the same funding category or subcategory and the same Federal share.
- HSIP funds may be used for the installation of vehicle-to-infrastructure communication equipment, pedestrian hybrid beacons, roadway improvements that provide separation between pedestrians and motor vehicles, including medians and pedestrian crossing islands, a physical infrastructure safety project not described elsewhere.
- The Secretary shall also consider the ‘Highway Safety Manual’ of the American Association of State Highway and Transportation Officials and the ‘Urban Street Design Guide’ of the National Association of City Transportation Officials to develop criteria for project design on the NHS.
- A State may allow a local jurisdiction to use a roadway design publication that is different from the roadway design publication used by the State in which the local jurisdiction is located for the design of a project on a roadway under the ownership of the local jurisdiction (other than a highway on the Interstate System) if:
  - the local jurisdiction is a direct recipient of Federal funds for the project;
  - the roadway design publication—
    - is recognized by the Federal Highway Administration; and
    - is adopted by the local jurisdiction;
  - The design complies with all other applicable Federal laws.
- The Secretary shall encourage each State and MPO to adopt standards for the design of Federal surface transportation projects that provide for the safe and adequate accommodation of all users of the surface transportation network, including motorized

# POLICY BRIEF

and non-motorized users, in all phases of project planning, development and operation.

## INNOVATION

- Directs the Secretary to establish an advanced transportation and congestion management technologies deployment initiative to provide grants to eligible entities to develop model deployment sites for large scale installation and operation of advanced transportation technologies funded at \$60 million per year.
  - Grants shall be awarded to not less than 5 and not more than 10 eligible entities. Eligible entities are State or local governments, MPOs with population over 200,000, or other political subdivisions of a State or local government or multijurisdictional groups or consortia of research institutions or academic institutions.
  - Grants may not exceed \$12 million to a single recipient in a fiscal year. The Federal share is limited to 50%.
  - Grant awards shall consider geographic and technology diversity.
  - Grants may be used to deploy advanced transportation and congestion management technologies, including advanced traveler information systems; advanced transportation management technologies; infrastructure maintenance, monitoring, and condition assessment; advanced public transportation systems; transportation system performance data collection, analysis, and dissemination systems; advanced safety systems, including vehicle-to-vehicle and vehicle-to-infrastructure communications, technologies associated with autonomous vehicles, and other collision avoidance technologies; integration of intelligent transportation systems with the Smart Grid; electronic pricing and payment systems; or advanced mobility and access technologies, such as dynamic ridesharing and information systems to support human services for elderly and disabled individuals.
- The goals of the Intelligent Transportation System Program are amended by adding: “enhancement of the national freight system and support to national freight policy goals.”
- The Secretary shall establish a program to provide grants to States or groups of 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.
  - Geographic diversity shall be considered in awarding grants.
  - The grant program is funded at \$15 million in 2016 and \$20 million per year for fiscal years 2017 through 2020.
  - The Federal share is limited to 50%.

## FINANCING

- TIFIA is funded at \$275 million in 2016 and increases to \$300 million in 2020. A roll-over provision is included so that unused TIFIA allocations accumulate year to year rather than being redistributed.
- The bill also updates the TIFIA program to enable it to be better utilized by rural areas and more accessible for small projects and makes transit-oriented development projects eligible to apply for TIFIA loans.
- Modifies the cost parameters for eligible projects. All eligible projects are now expected to cost at least \$50 million. Adds project cost exceptions for transit-oriented

# POLICY BRIEF

development (costs must equal or exceed \$10 million), rural projects (\$10 million to \$100 million), and local infrastructure projects (equal to or greater than \$10 million).

- Redefines a rural infrastructure project as a project located in an area that is outside an urbanized area of 150,000 people or more.
- Sets a limit for TIFIA funding used towards small projects with project costs of less than \$75 million.
- Adds a requirement that MPOs must be consulted on the placement and amount of tolls on an HOV facility located on the Interstate System if the facility is located in an MPO.
- Authorizes the Secretary to establish a National Surface Transportation and Innovative Finance Bureau to provide assistance and communicate best practices and financing and funding opportunities to eligible entities; administer the application processes for TIFIA, RRIF, the qualified highway or surface freight transfer facilities bonding program, and the new Nationally Significant Freight and Highway Projects program; promote innovative financing best practices; reduce uncertainty and delays in environmental reviews and permitting; and reduce costs in project delivery and procurement.
- Requires the Secretary of Transportation to establish a Council on Credit and Finance. The Council shall review applications for assistance submitted under TIFIA, RRIF, the qualified highway or surface freight transfer facilities bonding program, and the new Nationally Significant Freight and Highway Projects program.

## MISCELLANEOUS PROVISIONS

- Funds apportioned to a State under HSIP may not be used to purchase, operate, or maintain an automated traffic enforcement system, except a system located in a school zone.
- Vehicle-to-infrastructure communication equipment is specified as an eligible expenditure under the Highway Performance Program and the Surface Transportation Block Grant Program.
- Secretary shall designate national electric vehicle charging and hydrogen, propane, and natural gas fueling corridors within 1 year.
  - Corridors will identify near- and long-term need for, and location of, electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, and natural gas fueling infrastructure at strategic locations along major national highways.
  - Secretary shall solicit nominations from State and local officials.
- Designates I-70 between Denver and Salt Lake City as a High Priority Corridor on National Highway System.