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# Federal-Aid Highway Program (FAHP): In Brief

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# Federal-Aid Highway Program (FAHP)

The federal government has provided some form of highway funding to the states for more than 100 years. The major characteristics of the federal highway program have been constant since the early 1920s. First, most funds are apportioned to the states by formula and implementation is left primarily to state departments of transportation (state DOTs). Second, the states are required to provide matching funds. Until the 1950s, each federal dollar had to be matched by an identical amount of state and local money. The federal share is now 80% for non-Interstate System road projects and 90% for Interstate System projects. Third, generally, federal money can be spent only on designated federal-aid highways, which make up roughly a quarter of U.S. public roads.

# How the Program Works

The Federal-Aid Highway Program (FAHP) is an umbrella term for the separate highway programs administered by the Federal Highway Administration (FHWA). These programs are almost entirely focused on highway construction, and generally do not support operations (such as state DOT salaries or fuel costs) or routine maintenance (such as mowing roadway fringes or filling potholes). Each state is required to have a State Transportation Improvement Plan, which sets priorities for the state's use of FAHP funds. State DOTs largely determine which projects are funded, let the contracts, and oversee project development and construction. More recently, metropolitan planning organizations (MPOs) have played a growing role in project decisionmaking in urban areas, but federal project funding continues to flow through state DOTs.

The 2015 surface transportation reauthorization act, the Fixing America's Surface Transportation Act (FAST Act; P.L. 114-94), authorized funding for FY2016-FY2020. A one-year FAST Act extension, through September 30, 2021, was enacted as part of the Continuing Appropriations Act, 2021, and other Extensions Act (P.L. 116-159). Under the FAST Act as extended, about 92.5% of FAHP funding is distributed through five core programs.[1] All five are formula programs, meaning that each state's annual share is divided up into the programs based on mathematical calculations set out in the law. The remaining programs, generally referred to as discretionary programs, are administered more directly by FHWA, but the funding distribution of some of these programs is formulaic as well. The FAHP does not provide money in advance. Rather, a state receives bills from private contractors for work completed and pays those bills according to its own procedures. The state submits vouchers for reimbursement to FHWA. FHWA certifies the claims for payment and notifies the Department of the Treasury, which disburses money electronically to the state's bank, often on the same day the state submits the voucher.[2]

The FAHP, unlike most other federal programs, does not rely on appropriated budget authority. Instead, FHWA exercises contract authority over monies in the Highway Trust Fund (HTF) and may obligate (promise to pay) funds for projects funded with contract authority prior to an appropriation. Once funds have been obligated, the federal government has a legal commitment to provide the funds. This approach shelters highway construction projects from annual decisions about appropriations.

[1] Federal Highway Administration, *Fixing America's Surface Transportation Act or "FAST Act,"* December 2015, at, http://www.fhwa.dot.gov/fastact/.

[2] Federal Highway Administration, *Funding Federal-Aid Highways*, FHWA-PL-17-011, January 2017, pp. 37-39, at, https://www.fhwa.dot.gov/policy/olsp/fundingfederalaid/FFAH_2017.pdf.

**Highway Program Terminology**

A distinctive terminology is used to describe highway program financing:[3]

**Distribution** of funds is FHWA notification to the states of the availability of federal funds. Once a distribution is announced, the funds usually remain available to the states to obligate for four years. The states do not receive the funds prior to undertaking work.

**Apportionment** is the distribution of funds among the states as prescribed by a statutory formula.

**Allocation** is an administrative distribution of funds (often for specific projects) under programs that do not have statutory distribution formulas.

**Reimbursement** occurs once a project is approved, the work is started, costs are incurred, and the state submits a voucher to FHWA. The reimbursable structure is designed to curb waste, fraud, and abuse.

**Contract authority** is a type of budget authority that is available for obligation even without an appropriation (although appropriators must eventually provide **liquidating authority** to pay the obligations).

**Obligation** of contract authority for a project by FHWA legally commits the federal government to reimburse the state for the federal share of a project. This can be done prior to an appropriation.

**Limitation on obligations**, known as ObLim or Oblimit, is used to control annual FHWA spending in place of an appropriation. The ObLim sets a limit on the total amount of contract authority that can be obligated in a single fiscal year. For practical purposes, the ObLim is analogous to an appropriation.[4]

# The Highway Trust Fund

The Highway Trust Fund is financed from a number of sources, including taxes on fuels, heavy truck tires, truck and trailer sales, and a weight-based heavy-vehicle use tax.[5] However, approximately 85%-90% of trust fund revenue comes from excise taxes on motor fuels, 18.3 cents per gallon on gasoline and 24.3 cents per gallon on diesel. The HTF consists of two separate accounts—highway and mass transit. The highway account receives an allocation equivalent to 15.44 cents of the gasoline tax and the mass transit account receives the revenue generated by 2.86 cents of the tax.[6] Because the fuel taxes are set in terms of cents per gallon rather than as a percentage of the sale price, their revenues do not increase with inflation. The fuel tax rates were last raised in 1993.

Sluggish growth in vehicle travel and improved vehicle efficiency have depressed the growth of fuel consumption and therefore the growth of fuel tax revenue.[7] Since FY2008, the revenues flowing into the highway account of the HTF have been insufficient to fund the expenditures authorized under the Federal-Aid Highway Program.[8] Congress has resolved this discrepancy by transferring money from the general fund to the HTF.

[3] For a more detailed discussion see ibid. pp. 1-2, 5-14, and 23-29.

[4] Ibid. pp. 31-34. To be highway contract authority the authorization must refer to Title 23, Chapter 1 of the *U.S. Code*, and it must be funded out of the Highway Trust Fund.

[5] Federal Highway Administration, *Highway Statistics, 2018: Federal Highway-User Fees*, Table FE-21B, Washington, DC, February 2020, at https://www.fhwa.dot.gov/policyinformation/statistics/2018/fe21b.cfm.

[6] Nonfuels taxes accrue only to the highway account. A separate 0.1-cents-per-gallon tax on all fuels goes into the leaking underground storage tank (LUST) trust fund, which is administered by the Environmental Protection Agency and the states.

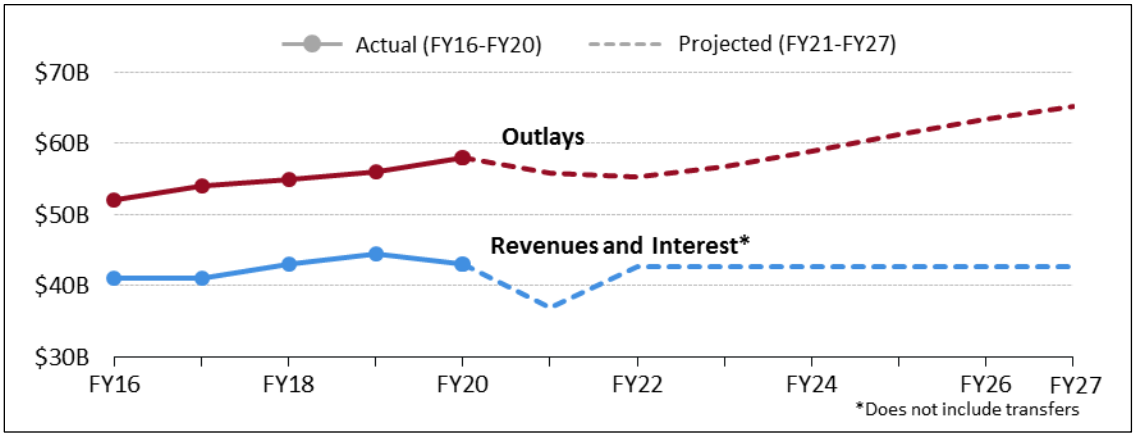
[7] Federal Highway Administration, *FHWA Forecasts of Vehicle Miles Traveled (VMT): Spring 2019*, Washington, DC, May 2019, at https://www.fhwa.dot.gov/policyinformation/tables/vmt/vmt_forecast_sum.pdf. See also *Traffic Volume Trends, at https://www.fhwa.dot.gov/policyinformation/travel_monitoring/tvt.cfm.*

[8] The imbalance between revenues and outlays first emerged in FY2002, but the unexpended balances in the HTF were sufficient to cover the imbalance until FY2008.

The COVID-19 pandemic also has had an impact on road-based travel. FHWA's December 2020 *Traffic Volume Trends* found that the 12-month cumulative travel for 2020 had changed -13.2%.[9] This has led to a dip in revenues flowing to the HTF in FY2020 and FY2021 (see **Figure 1**).

The FAST Act provided for $70 billion in general fund transfers and a $300 million transfer from the Leaking Underground Storage Tank Trust Fund (LUST) fund.[10] The FAST Act extension transferred an additional $13.6 billion from the general fund.

**Figure 1. Projected HTF Revenues and Outlays**




**Source:** Congressional Budget Office, Projections of Highway Trust Fund Accounts: February 2021 Baseline.

A gap between dedicated HTF revenues and outlays is expected to persist after the FAST Act, as extended, expires at the end of FY2021 based on current tax rates and levels of spending adjusted for inflation (**Figure 1**). The Congressional Budget Office (CBO) projects that beginning in summer FY2022, revenues credited to the highway and transit accounts of the HTF will be insufficient to meet the fund's obligations, and that HTF receipts will fall $69.8 billion short of the amount needed to fund surface transportation programs as presently configured from FY2022 through FY2026.[11] Congress will face the need to approve some combination of new taxes, an increase in existing fuel taxes, continued expenditures from the general fund, increased federally supported debt financing, or reductions in the scope of the federal surface transportation program if the FAST Act is replaced or again extended beyond late FY2022.[12]

[9] Federal Highway Administration, *Traffic Volume Trends*, Washington, DC, December 2020, at https://www.fhwa.dot.gov/policyinformation/travel_monitoring/20dectvt/20dectvt.pdf.

[10] Since September 15, 2008, a total of $157.213 billion has been transferred to the HTF from Treasury general funds and the LUST trust fund, including $125.072 billion to the highway account.

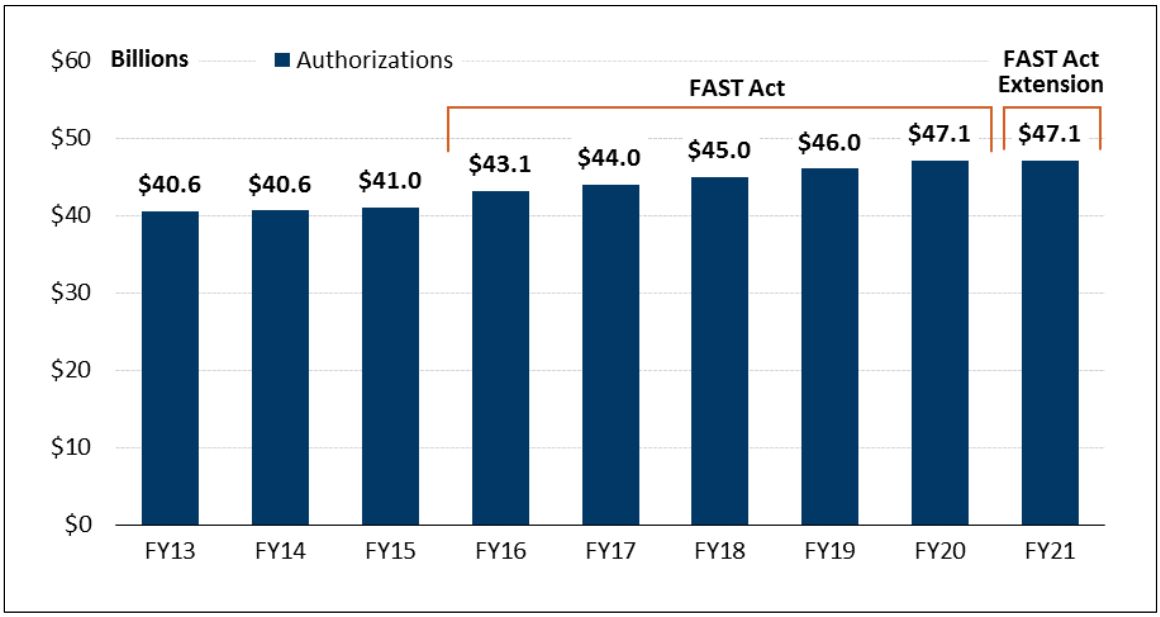
[11] Congressional Budget Office, *Projections of Highway Trust Fund Accounts Under CBO's February 2021 Baseline*, at https://www.cbo.gov/system/files/2021-02/51300-2021-02-highwaytrustfund.pdf. The Highway Account shortfall projection is $48.1 billion, and the Mass Transit Account $21.7 billion. Because requests for reimbursement from the HTF may occur at any time and because Treasury transfers to the HTF occur only twice each month, DOT deems it prudent to maintain a $4 billion minimum in the Highway Account and $1 billion in the Mass Transit Account to prevent having to delay payments to states and transit agencies due to insufficient funds. This raises the total new revenues or transfers needed for a five-year bill to roughly $75 billion. The amount of new revenues or transfers needed for a six-year bill will be roughly $97 billion.

[12] CRS Report R45350, *Funding and Financing Highways and Public Transportation*, by Robert S. Kirk and William J. Mallett.

# Funding Federal-Aid Highways

The FAST Act, as extended, provides an annual average of $45 billion annually for FY2016-FY2021 for highways, about 10% more (unadjusted for inflation) than the annual average under the previous authorization bill, the two-year Moving Ahead for Progress in the 21st Century Act (MAP-21; P.L. 112-141). (See **Table 1** and **Figure 2**.) The FAST Act made limited programmatic changes, but did increase emphasis on the movement of freight. This was reflected in a new formula freight program, the National Highway Freight Program, and a new competitive discretionary grant program, the Nationally Significant Freight and Highway Projects Program. Under the FAST Act, 92.5% of the Federal-Aid Highway Program funding is apportioned by formula (see **Table 3**). The act included no new congressional earmarks.

**Figure 2. Federal-Aid Highway Funding: FY2013-FY2021**




**Source:** Federal Highway Administration.

**Notes:** Totals are unadjusted for inflation. FY2020 authorization column reflects the restoration of the $7.569 billion rescission that had been scheduled for July 1, 2020, under Section 1438 of the FAST Act.

**Table 1. Highway Authorizations: FAST Act, as Extended**

(contract authority from the highway account of the HTF, except as noted, in millions of dollars)

| Program | FY2016 | FY2017 | FY2018 | FY2019 | FY2020 | FY2021 | Total |
|---|---|---|---|---|---|---|---|
| Title I: Federal-Aid Highways (FAHP formula) | 39,728 | 40,548 | 41,424 | 42,359 | 43,373 | 43,373 | 250,805 |
| Nationally Significant Freight and Highway Projects (NSFH) | 800 | 850 | 900 | 950 | 1,000 | 1,000 | 5,500 |
| Transportation Infrastructure Finance and Innovation Program (TIFIA) | 275 | 275 | 285 | 300 | 300 | 300 | 1,735 |
| Tribal Transportation Program | 465 | 475 | 485 | 495 | 505 | 505 | 2,930 |
| Federal Lands Transportation Program | 335 | 345 | 355 | 365 | 375 | 375 | 2,150 |
| Federal Lands Access Program | 250 | 255 | 260 | 265 | 270 | 270 | 1,570 |
| Territorial and Puerto Rico Highway Program | 200 | 200 | 200 | 200 | 200 | 200 | 1,200 |
| FHWA Administrative Expenses | 453 | 460 | 467 | 474 | 481 | 481 | 2,815 |
| Emergency Relief | 100 | 100 | 100 | 100 | 100 | 100 | 600 |
| Construction of Ferry Boats | 80 | 80 | 80 | 80 | 80 | 80 | 480 |
| Appalachian Regional Development Program [Gen. Fund] | 110 | 110 | 110 | 110 | 110 | 110 | 660 |
| Regional Infrastructure Accelerator Demonstration Program [Gen. Fund] | 12 | 0 | 0 | 0 | 0 | 0 | 12 |
| Nationally Significant Federal Lands and Tribal Projects [Gen. Fund] | 100 | 100 | 100 | 100 | 100 | 100 | 600 |
| **Total Authorizations: Title I** | 42,908 | 43,798 | 44,766 | 45,798 | 46,894 | 46,894 | 271,057 |
| Title IV: Transportation Research | 415 | 418 | 418 | 420 | 420 | 420 | 2,510 |
| **Total Contract Authority (HTF)** | 43,100 | 44,005 | 44,973 | 46,008 | 47,104 | 47,104 | 272,294 |
| *Total Obligations* | *43,100* | *44,005* | *44,973* | *46,008* | *47,104* | *47,104* | *272,294* |
| **Total General Fund Authorizations** | 222 | 210 | 210 | 210 | 210 | 210 | 1,272 |
| **Total Authorizations** | 43,322 | 44,215 | 45,183 | 46,218 | 47,314 | 47,314 | 273,566 |

**Source:** Federal Highway Administration, *FAST Act: Funding Tables*, Washington, DC, 2015, http://www.fhwa.dot.gov/fastact/estfy20162020auth.pdf. For FY2021, the Continuing Appropriations Act, 2021, and other Extensions Act (P.L. 116-159). For breakout of formula programs, see **Table 3**.

**Notes:** Total Obligations are the annual obligation limitations plus exempt obligations. Totals do not include funding for the safety operations of the National Highway Traffic Safety Administration or the Federal Motor Carrier Safety Administration. The obligation limitation plus exempt obligation amounts are equal to the total contract authority under the FAST Act as extended.

## Inflation Impacts

**Table 2** displays the current-dollar obligations from FY2013 through FY2019, with adjustments for inflation based on a price index for the costs of highway and street projects.

**Table 2. Trends in FAHP Obligations, FY2012-FY2019**

(current and inflation-adjusted dollars in millions)

| | FY2012 | FY2013 | FY2014 | FY2015 | FY2016 | FY2017 | FY2018 | FY2019 |
|---|---|---|---|---|---|---|---|---|
| **Total (Current $)** | $39,883 | $40,438 | $40,995 | $40,995 | $43,100 | $44,005 | $44,973 | $46,008 |
| % Change from Previous Year | — | +1.4% | +1.4% | 0.0% | +5.1% | +2.1% | +2.2% | +2.3 |
| **Total (Inflation-Adjusted, 2012 $)** | $39,883 | $39,659 | $39,590 | $39,467 | $41,397 | $41,256 | $40,368 | $40,176 |
| % Change from Previous Year | — | -0.6% | -0.2% | -0.3% | +4.9% | -0.3 | -2.0 | -0.04 |

**Sources:** FHWA. Cost adjustments calculated by CRS using Bureau of Economic Analysis, *Price Indexes for Gross Government Fixed Investment by Type*, National Income and Product Accounts Table 5.9.4B, Line 40: State and local highways and streets. Weighted average used to approximate FY2013 through FY2019.

**Note:** 2020 index not available.

# Formulas and Apportionments

The apportioned programs include five "core" programs plus the Metropolitan Planning Program. The core programs are the National Highway Performance Program (NHPP), the Surface Transportation Block Grant Program (STBG), the Highway Safety Improvement Program (HSIP), the Congestion Mitigation and Air Quality Improvement Program (CMAQ), and the National Highway Freight Program (NHFP). The FAST Act does not use separate formulas to determine each state's apportionments under each core program. Instead, the act provides for a single gross apportionment to each of the states, which is then divided up among the programs. A summary of the process follows.[13]

## Calculation of State Amounts

Each year, the process begins by calculating the apportionment total for each state. For the amounts available for apportionment in each year, see **Table 3**.

Prior to making the calculation of state apportionments, FHWA is in FY2021 to reserve for NHPP $67 million and for STBG $1.020 billion. Each state's share of the reserve funds is determined by multiplying the reserved totals for the year by the ratio that each state's FY2015 apportionments bear to the nationwide total for FY2015. This increases the support for these programs relative to total funds available without changing the percentages mentioned below.[14] The total amount available for apportionment after reserving these funds is the "base apportionment amount."

[13] CRS Report R45727, *The Highway Funding Formula: History and Current Status*, by Robert S. Kirk.

[14] Pursuant to 23 U.S.C. §133(h), $850 million annually of the STBG reserve funds for FY2018-FY2021 is set aside for transportation alternatives.

The base apportionment amount for each state is then determined by multiplying the nationwide base apportionment amount by the ratio that each state's FY2015 apportionments bear to the nationwide total for FY2015.[15]

Next, the initial amounts are adjusted, if necessary, to assure that if any state's total base apportionment plus reserve funds is less than 95 cents for every dollar the state contributed to the highway account of the HTF (based on the most recent year for which data are available), the state's share is raised to that level. The money to raise these states' shares comes from a pro rata reduction of funds of states whose apportionments are in excess of a 95% return on contributions.

After the state amounts are determined, each state's amount is divided up among the core programs according to statute. **Table 3** shows the dollar amounts of the programmatic split.[16]

**Table 3. Apportioned Programs (Contract Authority)**

(millions of dollars, FAST Act as extended through FY2021)

| Program | FY2016 | FY2017 | FY2018 | FY2019 | FY2020 | FY2021 | Total |
|---|---|---|---|---|---|---|---|
| National Highway Performance Program (NHPP) | 22,332 | 22,828 | 23,262 | 23,741 | 24,236 | 24,239 | 140,638 |
| Surface Transportation Block Grant Program (STBG) | 11,163 | 11,424 | 11,668 | 11,876 | 12,137 | 12,139 | 70,407 |
| Highway Safety Improvement Program (HSIP) | 2,226 | 2,275 | 2,318 | 2,360 | 2,407 | 2,408 | 13,993 |
| Safety-related programs (HSIP set-aside) | 3.5 | 3.5 | 3.5 | 3.5 | 3.5 | 3.5 | 21.0 |
| Railway-highway crossings (HSIP set-aside) | 225 | 230 | 235 | 240 | 245 | 245 | 1,420 |
| National Highway Freight Program (NHFP) | 1,140 | 1,091 | 1,190 | 1,339 | 1,487 | 1,487 | 7,734 |
| Congestion Mitigation & Air Quality Improvement Program (CMAQ) | 2,309 | 2,360 | 2,405 | 2,449 | 2,499 | 2,494 | 14,517 |
| Metropolitan Transportation Planning | 329 | 336 | 343 | 350 | 359 | 358 | 2,076 |
| **Total** | **39,728** | **40,548** | **41,424** | **42,359** | **43,373** | **43,374** | **250,806** |

**Source:** Federal Highway Administration. STBG amounts include the Transportation Alternatives annual set-aside. Totals may not add due to rounding. NHFP figures represent net amounts after a portion is applied to the Metropolitan Planning Program under §1104(b)(6). Totals represent gross authorizations. For FY2021 state-by-state apportionments are at, https://www.fhwa.dot.gov/legsregs/directives/notices/n4510847/n4510847_t1.cfm.

[15] FAST Act §1104(c). Wording in Section 1401(c) breaks the authorization calculation into three parts: the "base apportionments" and the NHPP and STBG reserved funds. These components are equal to the total apportionment authorizations under Section 1104(a)(1). The apportionment calculation for FY2021 is available at https://www.fhwa.dot.gov/legsregs/directives/notices/n4510847/.

[16] Federal Highway Administration, *Fixing America's Surface Transportation Act or FAST Act*, funding tables, http://www.fhwa.dot.gov/fastact/funding.cfm. This site includes tables that set forth the authorizations as well as the estimated apportionments on a state-by-state basis over the life of the FAST Act.

## Additional Appropriated Amounts for Highways

Appropriations legislation for FY2019-FY2021 has provided additional funding for highways. The Consolidated Appropriations Act, 2018 (P.L. 115-141), provided additional funding from the general fund, including $2.525 billion for FHWA programs. The Consolidated Appropriations Act, 2019 (P.L. 116-6), provided an additional $3.250 billion for highways. The Further Consolidated Appropriations Act, 2020 (P.L. 116-94), provided an additional $2.166 billion for highways. The Further Continuing Appropriations, 2021, and Other Extensions Act (P.L. 116-215) provided an additional $2 billion. [17]

## COVID-19 Relief for Highways

The Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA; P.L. 116-260, Division M) provided $10 billion for "Highway Infrastructure Programs." These funds may be used for any purpose under the Surface Transportation Block Grant Program (23 U.S.C. §133(b)) or for costs related to preventive maintenance, routine maintenance, operations, and personnel, including salaries of employees or contractors, debt service payments, availability payments and coverage for other revenue losses. Transfers are also allowed to tolling agencies.[18]

# Core Highway Formula Programs

## National Highway Performance Program (NHPP; FAST Act §1106)

NHPP is the largest of the federal-aid highway programs, with annual authorizations averaging over $23 billion. The program supports improvement of the condition and performance of the National Highway System (NHS), which includes Interstate System highways and bridges as well as virtually all other major highways. NHPP funds projects to achieve national performance goals for improving infrastructure condition, safety, mobility, and freight movement, consistent with state and metropolitan planning; construction, reconstruction, or operational improvement of highway segments; construction, replacement, rehabilitation, and preservation of bridges, tunnels, and ferryboats and ferry facilities; inspection costs and the training of inspection personnel for bridges and tunnels; bicycle and pedestrian infrastructure; intelligent transportation systems; and environmental restoration, as well as natural habitat and wetlands mitigation within NHS corridors. If Interstate System and NHS bridge conditions in a state fall below the minimum conditions established by the Secretary of Transportation, certain amounts would be transferred from other specified programs in the state. NHPP funds may be used for Appalachian Development Highway System projects with no state match. States also may use NHPP funds on bridges not on the NHS as long as the bridge is on the federal-aid highway system.

[17] For the FY2021 state-by-state apportionments, see Federal Highway Administration, *Apportionment of Highway Infrastructure Program Funds Pursuant to the Department of Transportation Appropriations Act, 2021*, Notice: N 4510.852, Washington, DC, January 15, 2021, at https://www.fhwa.dot.gov/legsregs/directives/notices/n4510852/.

[18] Federal Highway Administration, Apportionment of Highway Infrastructure Program Funds Pursuant to the Coronavirus Response and Relief Supplemental Appropriations Act, 2021, Notice: N4510.851, Washington, DC, January 15, 2021, at https://www.fhwa.dot.gov/legsregs/directives/notices/n4510851/.

## Surface Transportation Block Grant Program (STBG; FAST Act §1109)

STBG is the federal-aid highway program with the broadest eligibility criteria. Funds can be used on any federal-aid highway, on bridge projects on any public road, on transit capital projects, on routes for nonmotorized transportation, and on bridge and tunnel inspection and inspector training. The FAST Act, as extended, authorizes an annual average of almost $11.7 billion for STBG. The Transportation Alternatives Program, which funded such projects as bicycle paths and walkways, is effectively absorbed into the STBG program. The FAST Act provides that $850 million per year from the STBG apportionment be set aside for transportation alternative-like uses. States and MPOs obligating these funds are to develop a competitive process for local public entities to submit projects for funding. A portion of the set-aside is directed toward the recreational trails program, from which states may apply to opt out.

STBG funds may be used for Appalachian Development Highway System projects with no state match. Virtually any federally eligible mass transit use may receive STBG funds. Carpool projects and electronic toll collection and congestion management projects are eligible. Repairs to off-system bridges and bridge replacement at the same location are also generally eligible.

Congress required that a portion of a state's STBG funding be allocated by the state's DOT based on a population formula. The percentage allocated to areas in the state by population is 55%. The remainder may be spent anywhere in the state. STP funds equal to 15% of the state's highway bridge apportionment for FY2009 are to be set aside for off-system bridges. Some STBG funds reserved for rural areas may be used on off-system rural minor collector roads.

## Highway Safety Improvement Program (HSIP; FAST Act §1113)

HSIP supports projects that improve the safety of road infrastructure by correcting hazardous road locations, such as dangerous intersections, or making road improvements, such as adding striping. HSIP funds may also be used for road safety projects not on federal-aid highways. Under the FAST Act as extended, HSIP averages $2.6 billion annually. The Rail-Highway Grade Crossing Program continues as an HSIP set-aside averaging $237 million per year. The FAST Act broadened the eligibility to make vehicle-to-vehicle technology and other infrastructure projects eligible. A smaller set-aside of $3.5 million annually is provided for discretionary safety grants.[19]

## Congestion Mitigation and Air Quality Improvement Program (CMAQ; FAST Act §1114)

CMAQ was established to fund projects and programs that may reduce emissions of transportation-related pollutants. Since FY2011, well over $1 billion of the annual CMAQ funding has been transferred to the Federal Transit Administration.[20] Under the FAST Act as extended, CMAQ's average annual authorization is $2.4 billion. The act expands eligibility to include port-related freight operations, or projects to reduce emissions from port-related road or nonroad equipment within a nonattainment or maintenance area. The installation of vehicle-to-infrastructure communication equipment has also been made CMAQ-eligible.

[19] CRS Report R43026, *Federal Traffic Safety Programs: In Brief*, by David Randall Peterman.

[20] American Public Transportation Association, *APTA Primer on Transit Funding, FY2016-FY2020*, Final Edition, Washington, DC, April 2016, p. 85, https://www.apta.com/resources/reportsandpublications/Documents/APTA-Primer-FAST-Act.pdf.

### National Highway Freight Program (NHFP; FAST Act §1116)

Annual apportionments for NHFP average $1.3 billion through FY2021. This new program is to help states and MPOs remove impediments to the movement of goods. Section 1116 requires FHWA to establish the National Highway Freight Network (HFN), made up of the primary highway freight system, critical rural freight corridors, critical urban freight corridors, and any Interstate System highways not so designated. Large states (with over 2% of the total mileage on the NHFN) are required to spend their apportionment on the primary, rural, or urban freight system roads. States with less than 2% of total NHFN miles can spend their funds on any of their NHFN miles. Up to 10% of NHFP funds can be spent on intermodal or freight rail projects.

### Transferability Among the Core Programs

States may transfer up to 50% of any apportionment to any other apportioned program. However, no transfers are permitted of funds suballocated to areas by population (such as STBG) or of Metropolitan Planning funds. The broad areas of eligibility overlap among the core programs under the FAST Act make it easier for states to operate within the 50% restriction.

## Other Highway Programs

### Nationally Significant Freight and Highway Projects (NSFHP; FAST Act §1105)

The NSFHP, also referred to as Infrastructure for Rebuilding America (INFRA), provides an average of $917 million per year in discretionary grants for projects of regional or national importance. States, groups of states, municipal governments, special purpose districts or transportation authorities, Indian tribes, federal land agencies, and other public entities may apply. Applicants apply directly to the Secretary of Transportation, circumventing the state DOTs.[21] Applications must meet eligibility requirements that emphasize improving freight movement and must involve work on the National Highway Freight Network, highway or bridge projects on the National Highway System, intermodal projects, or railway-highway grade crossing or separation projects. Grants for projects of $100 million or more are to be the primary focus (with a $500 million upper limitation over the life of the program for freight intermodal or freight rail projects). However, 10% of funds are to be reserved for small projects. Also, 25% of available funds are to be reserved for projects in rural areas. The federal project share is not to exceed 60%.

### Emergency Relief Program (ER; FAST Act §1107)

ER funds are made available following natural disasters or catastrophic failures (from an external cause) for emergency repairs, restoration of federal-aid highway facilities to predisaster conditions, and debris removal from roads on tribal and federal lands. The program is funded by an annual HTF authorization of $100 million and general fund appropriations authorized on a "such sums as necessary" basis. ER funds can only be used on federal-aid highways.[22]

[21] The NSFHP is administered by the National Surface Transportation and Innovation Finance Bureau, not by FHWA.

[22] CRS Report R45298, *Emergency Relief for Disaster-Damaged Roads and Public Transportation Systems*, by Robert S. Kirk and William J. Mallett.

## Territorial and Puerto Rico Highway Program (FAST Act §1115)

The Puerto Rico and Territorial Highway programs are funded at $158 million and $42 million annually, respectively, through FY2021.

## Appalachian Development Highway System Program (ADHS; FAST Act §1435)

The ADHS is made up of designated corridors in 13 participating Appalachian states. The ADHS program is a road-building program intended to break Appalachia's isolation and encourage development. Construction has been ongoing since the mid-1960s. The ADHS is not a free-standing federal-aid program, but ADHS projects are incorporated into the eligibilities of NHPP and STBG. The federal share for ADHS projects is up to 100%, as determined by the states.[23]

## Construction of Ferry Boats and Ferry Facilities (FAST Act §1112)

The Ferry Boats and Ferry Terminal Facilities Program is a formula program that includes no set-asides for specific states. The FAST Act provides $80 million annually, available until expended, for the construction of ferryboats and terminal facilities. The funding is to be apportioned according to a formula weighted by passengers (40%), vehicles (35%), and total route miles (30%). Ferryboats and facilities are also eligible for formula funds under the NHPP.

## Federal Lands and Tribal Transportation Programs (FAST Act §§1117-1121)

The program has three main components:

- The Tribal Transportation Program distributes funds among tribes mainly under a statutory formula based on road mileage, tribal population, and relative need. The FAST Act, as extended, provides an average annual authorization of $488 million. The FAST Act established a Tribal Transportation Self-Governance Program to allow the Secretary to delegate the administration of the program to tribes that meet certain financial and managerial criteria.
- The Federal Lands Transportation Program is funded at an average annual authorization of $358 million through FY2021. Of this amount, an average of $287 million is provided for the National Park Service, $30 million annually for the Fish and Wildlife Service, and $17 million on average annually for the Forest Service for transportation activities. The remaining funding is allocated among other federal land management agencies, the Forest Service, the Corps of Engineers, the Bureau of Land Management, the Bureau of Reclamation, and agencies with natural resource and land management responsibilities.
- The Federal Lands Access Program (FLAP) supports projects that are on, adjacent to, or provide access to federal lands. Funding is allocated among the states by a formula based on the amount of federal land, the number of recreational visitors, federal road mileage, and the number of federally owned bridges. FLAP is funded at an average annual authorization of $262 million.

[23] Federal Highway Administration, *Guide to Federal-Aid Programs: Appalachian Development Highway Program*, Washington, DC, updated April 14, 2016, https://www.fhwa.dot.gov/federalaid/projects.pdf#page=14.

In addition, the FAST Act established the Nationally Significant Federal Lands and Tribal Projects Program (NSFLTP) under Section 1123 to support large projects on federal and tribal lands. Projects must have an estimated cost of at least $25 million, with priority given to projects costing over $50 million. NSFLTP is authorized at $100 million annually, but requires an appropriation to make funds available. The NSFLTP has received appropriations of $300 million for FY2018, $25 million for FY2019, $70 million for FY2020, and $100 million for FY2021.

## Transportation Infrastructure Finance and Innovation Act Program (TIFIA; FAST Act §2001)

The TIFIA program provides secured loans, loan guarantees, and lines of credit for major surface transportation projects.[24] Loans must be repaid with a dedicated revenue stream, typically a project-related user fee, such as a toll. TIFIA is funded at $300 million for FY2021. Assuming an average subsidy cost of 7%, this funding may allow lending of roughly $4.3 billion in the year.[25] States may use their NHPP and STBG funds to pay the administrative and subsidy costs of the program. Discretionary INFRA grants can also be used to pay these costs.

The minimum amount of TIFIA assistance for a single project is $50 million, except for intelligent transportation system projects ($15 million), rural projects ($10 million), transit-oriented development ($10 million), and local government projects ($10 million).[26] Up to 10% of program funds are set aside to assist rural projects. Whereas loans for urban projects must be charged interest not less than the Treasury rate, rural projects are offered loans at half the Treasury rate. Rural projects are defined to include any project in an area outside of an urbanized area with a population greater than 150,000 individuals. TIFIA funds may be used to capitalize state infrastructure banks and to build infrastructure in support of transit-oriented development.

## Tolling

Tolling of non-Interstate federal-aid highways has been allowed since 1992.[27] Totally new Interstate Highway routes or extensions of existing routes may be built as toll roads. Toll lanes may be added to an existing Interstate route as long as the number of "free" lanes is maintained. Public authorities may impose tolls on single occupant vehicles for access to high occupancy vehicle (HOV) lanes. States may use congestion pricing on tolled road segments. Tolls are important revenue streams for many public-private partnerships and alternative financing mechanisms. FHWA does not regulate toll rates.

[24] TIFIA is administered by the Build America Bureau within the U.S. Department of Transportation.

[25] These subsidy estimates do not reflect reductions for administrative costs and the application of the obligation limitation. The subsidy cost is "the estimated long-term cost to the government of a direct loan or a loan guarantee, calculated on a net present value basis, excluding administrative costs," Federal Credit Reform Act of 1990 (FCRA), §502 (5A).

[26] The law generally provides eligibility for projects whose total expected costs are $50 million or more or exceed 33.3% of the amount of federal highway assistance apportioned to a state in the most recent fiscal year to the state in which the project is located.

[27] CRS Report R44910, *Tolling U.S. Highways and Bridges*, by Robert S. Kirk.

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