

A SUMMARY OF THE NEW FEDERAL SURFACE TRANSPORTATION LAW:
The “Fixing America’s Surface Transportation (FAST)” Act

For the first time since August 2005 when President George W. Bush signed the SAFETEA-LU Act, Congress has approved a \$305 billion, 5-year surface transportation law – the “*Fixing America’s Surface Transportation (FAST)*” Act – which, because it is backed by its own revenue provisions, will provide a guaranteed and predictable funding stream for states and local governments to plan and construct road, bridge, transit, freight, and passenger rail projects for Fiscal Years (FY) 2016-2020.

On Thursday, December 3, the House passed the FAST Act in a 359-65 vote and the Senate followed with passage 83-16. U.S. Representatives Virginia Foxx (R-NC-5), George Holding (R-NC-13), Richard Hudson (R-NC-8), Walter Jones (R-NC-3) and Mark Walker (R-NC-6) voted against the legislation, while both NC Senators, Richard Burr and Thom Tillis, supported it. U.S. President Obama signed the FAST Act into law on December 4. This legislation is not to be confused with the annual Transportation/HUD Appropriations Act, which will officially appropriate the funds authorized in the FAST Act and add its own spending items, such as the TIGER Grant program (which is not part of the FAST Act).

The FAST Act provides an increase of \$10 billion over 5 years over the previous transportation law, known as MAP-21, by authorizing \$225 billion for highways, \$61 billion for public transportation, \$10 billion for passenger rail and \$7 billion for highway safety programs. Spending under the FAST Act will not increase the federal deficit and is fully paid for by revenue from the \$18.4-cent federal gas tax and \$24.4-cent diesel tax going into the Highway Trust Fund plus a combination of \$70 billion in non-transportation related general funds. The lion’s share of the \$70 billion in general fund revenues is represented by the transfer of \$53 billion from the Federal Reserve’s Surplus Fund to the Highway Trust Fund. As expected, Congress did not consider raising the federal fuels taxes – last increased in 1993 – which means that a third of the cost of the bill will be paid for by general fund revenue.

One major accomplishment of the FAST Act will be to keep the Highway Trust Fund, which has been on the precipice of insolvency a number of times over the past 3 years, stable through Fiscal Year 2020. The bill also represents a significant commitment to growing spending on critical transportation infrastructure and a firm repudiation of Congressional proposals that would have “devolved” federal responsibility for all transportation programs, including raising the funds, to the states.

Overall Spending

Overall, the FAST Act increases spending on both highways and transit. Highway spending in FY 2016 would be \$2.1 billion (5.1 percent) above FY 2015 levels, while mass transit spending in FY 2016 would be \$753 million (8.8 percent) above FY 2015 levels. Highway spending would then grow by 2.1 to 2.4 percent per year after FY 2016, while mass transit spending would grow at about 2.1 percent per year.

Highways and Bridges

One of the most notable changes in the bill is that the FAST Act converts the Surface Transportation Program (STP) into a block grant program known as the “Surface Transportation Block Grant Program” (STBGP) in an effort to provide maximum flexibility in the use of funds to states and local governments. Local governments will receive slightly more money to invest in their priority projects,

with an increase in funds sub-allocated to metropolitan areas on the basis of population by 1 percent per year of the bill, from the current 50 percent to 55 percent in FY 2020.

The FAST Act repeals the Transportation Alternatives Program (TAP) – a popular program created in 2012 for trails and other smaller projects – and folds it into the STBGP, while preserving TAP-eligible projects. TAP, which received \$820 million in FY 2015, will get \$835 million per year in FY 2016 and 2017 and \$850 million per year in FY 2018-2020. The bill, however, will allow metropolitan areas over 200,000 to use up to half of the TAP-designated funds for non-TAP uses, which may decrease the availability of TAP funds in the larger cities. The Recreational Trail Program will receive a set-aside of \$84.16 million per year derived from the yearly TAP designation.

The FAST Act maintains the current off-system bridge set-aside, providing \$776.5 million annually out of the states' share of the STBGP program. FAST will also open up the National Highway Performance Program to support all on-system bridges – essentially making an additional \$116.4 billion available to locally-owned infrastructure, which more than repairs the 30 percent decrease in funding that occurred in 2012 with the elimination of the National Bridge Program. Over 5 years, the FAST provides \$58.3 billion for the STBGP.

Mass Transit

The FAST Act maintains a strong commitment to public transportation systems, authorizing a total of \$61.1 billion over 5 years. The Bus and Bus Facilities Program is authorized at a total funding level of \$696 million in FY 2016, and \$809 million by FY 2020. This is a 62.5 percent increase over the current funding in the first year and 89 percent over the life of the bill.

The FAST Act also amends the Bus and Bus Facilities grant program to allow recipients in a specific state to pool their formula funds to allow for the accommodation of larger scale procurements. In addition, it reinstates a competitive grant bus program, which includes a 10 percent rural set-aside and a provision that not more than 10 percent of all grant amounts can be awarded to a single grantee. The competitive grant bus program would grow from \$268 million in FY 2016 to \$344 million by FY 2020 and includes a \$55 million per year set-aside for low and no emission buses.

The legislation allows states to submit statewide applications for bus needs, which would allow the state to distribute competitively-awarded funds.

UPCOMING REPORTS ON THE FAST ACT

- 1. The Freight Title: New Formula and Competitive Grants and How Communities Can Obtain Them.*
- 2. New Funding Opportunities: Loans, Grants and Other Key Policy Changes that You Can Use to Get Federal Money for Your Projects.*

For more information, contact Leslie Mazingo at (202) 255-5760 or leslie@strategics.consulting.