

# The Fixing America's Surface Transportation Act or "FAST Act"

On December 4, 2015, President Obama signed into law the Fixing America's Surface Transportation Act, or "FAST Act." It is the first law enacted in over ten years that provides long-term funding certainty for surface transportation, meaning States and local governments can move forward with critical transportation projects, like new highways and transit lines, with the confidence that they will have a Federal partner over the long term. Secretary Foxx and his team at U.S. DOT have worked tirelessly to advocate for a long term bill, underscoring the needed sense of urgency to the American people.

As Secretary Foxx said, "After hundreds of Congressional meetings, two bus tours, visits to 43 states, and so much uncertainty – and 36 short term extensions – it has been a long and bumpy ride to a long-term transportation bill. It's not perfect, and there is still more left to do, but it reflects a bipartisan compromise I always knew was possible."

Overall, the FAST Act largely maintains current program structures and funding shares between highways and transit. It is a down-payment for building a 21st century transportation system, increasing funding by 11 percent over five years. This is far short of the amount needed to reduce congestion on our roads and meet the increasing demands on our transportation systems. In comparison, the Administration's proposal, the GROW AMERICA Act, increases funding by 45 percent.

The law also makes changes and reforms to many Federal transportation programs, including streamlining the approval processes for new transportation projects, providing new safety tools, and establishing new programs to advance critical freight projects.

Below is a more detailed summary of some FAST Act provisions. More detailed descriptions of how the FAST Act will affect each mode of transportation will be released in the coming weeks.

**PROJECT DELIVERY:** DOT has been a leader in reducing the bureaucratic red tape that can stall and delay critical transportation projects from moving forward. The FAST Act adopted a number of Administration proposals to further speed the permitting processes while still protecting environmental and historic treasures and also codifying the online system to track projects and interagency coordination processes.

**FREIGHT:** The FAST Act would establish both formula and discretionary grant programs to fund critical transportation projects that would benefit freight movements. These programs are similar to what the Administration proposed and will for the first time provide a dedicated source of Federal funding for freight projects, including multimodal projects. The Act emphasizes the importance of Federal coordination to focus local governments on the needs of freight transportation providers.

<https://www.transportation.gov/fastact>

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**INNOVATIVE FINANCE BUREAU:** The FAST Act establishes a new National Surface Transportation and Innovative Finance Bureau within the Department to serve as a one-stop shop for state and local governments to receive federal funding, financing or technical assistance. This builds on the work of the Department's Build America Transportation Investment Center and provides additional tools to improve coordination across the Department to promote innovative finance mechanisms. The Bureau is also tasked with responsibility to drive efficiency in the permitting process, consistent with our request to establish a dedicated permitting office.

**TIFIA:** The TIFIA Loan program provides important financing options for large projects and public-private partnerships. The FAST Act includes organizational changes that will provide an opportunity for important structural improvements with the potential to accelerate the delivery of innovative finance projects. However, FAST's cut to the TIFIA program could constrain growth in this area over the course of the bill.

**SAFETY:** The FAST Act includes authority sought by the Administration to prohibit rental car companies from knowingly renting vehicles that are subject to safety recalls. It also increased maximum fines against non-compliant auto manufactures from \$35 million to \$105 million. The law also will help bolster the Department's safety oversight of transit agencies and also streamlines the Federal truck and bus safety grant programs, giving more flexibility to States to improve safety in these areas. However, we know the bill also took a number of steps backwards in terms of the Department's ability to share data with the public and on the Department's ability to exercise aggressive oversight over our regulated industries.

**TRANSIT:** The FAST Act includes a number of positive provisions, including reinstating the popular bus discretionary grant program and strengthening the Buy America requirements that promote domestic manufacturing through vehicle and track purchases.

**LADDERS OF OPPORTUNITY:** The Act includes a number of items that strengthen workforce training and improve regional planning. These include allocating slightly more formula funds to local decision makers and providing planners with additional design flexibilities. Notably, FAST makes Transit Oriented Development (TOD) expenses eligible for funding under highway and rail credit programs. TOD promotes dense commercial and residential development near transit hubs in an effort to shore up transit ridership and promote walkable, sustainable land use.

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## **The FAST Act: Highway, rail, and hazardous materials transportation safety**

The FAST Act makes a number of changes to the Department's safety programs, including creating new grant programs, and making changes to the Department's authorities to protect the traveling public. Specifically, the FAST Act:

- Increases the maximum civil penalty that may be imposed against auto makers for safety-related motor vehicle defects;
- Improves the National Highway and Traffic Safety Administration's (NHTSA) ability to recall unsafe vehicles and prohibits rental companies from renting out motor vehicles subject to safety recalls until they are fixed;
- Streamlines the Federal Motor Carrier Safety Administration's (FMCSA) truck and bus safety grant programs;
- Establishes a new competitive grant program for passenger and freight rail safety projects;
- Increases accountability of States to ensure rail transit safety performance by bolstering oversight in urban areas;
- Allowing flexibility in transporting hazardous materials during major disasters and emergencies in an effort to improve the ability to carry out emergency response and relief efforts; and
- Requires certain truck company safety performance data to be removed from the Department's website pending the results of a review of that data.

# **The FAST Act:**

## **Accelerating Project Delivery**

**The FAST Act includes a number of changes to Federal law intended to streamline the environmental review process for many transportation projects across the Federal Government.** Specifically, the FAST Act:

- *Extends the environmental review process that applies to highways and public transportation to railroad and multimodal projects.* The Act provides the Secretary with the authority to extend the highway environmental review provisions (23 U.S.C. 139) to some rail and multimodal projects.
- *Codifies the Every Day Counts initiative.* The FAST Act codifies the Federal Highway Administration's (FHWA) "Every Day Counts" initiative that helps identify, accelerate, and deploy proven innovations that shorten the project delivery process and improve environmental sustainability.
- *Allows greater use of funds for permitting improvements.* The FAST Act enables any public entity receiving surface transportation funding to make funds available to Federal agencies, State agencies, and Indian Tribes to support activities that improve the permitting and review processes.
- *Improves early and substantive engagement among agencies during the environmental review process.* The Act clarifies the roles and responsibilities of the different Federal agencies involved in the environmental review process and sets up a checklist for Environmental Impact Statement projects to identify the environmental issues in the project area and the agencies with jurisdiction for affected natural and historic resources.
- *Expands a public Dashboard to provide transparency to the review of transportation projects.* The Act requires an online platform to make publicly available the status and progress of a broader variety of projects undergoing environmental review, including projects receiving innovative financing.
- *Reduces duplicative reviews and adds additional optional process.* The Act extends an exemption under which environmental review of post-1950 concrete bridges can be addressed as a group instead of requiring individual review.
- *Expedites environmental review for reconstruction in the aftermath an emergency.* The Act emphasizes the use of exemptions and expedited processes for environmental review and consultation for the reconstruction of road, highway, railway, bridge, or transit facilities damaged by an emergency if the reconstruction is in the same location with same capacity, dimensions, and design as before the emergency.

- *State Pilot Project on NEPA.* The Act establishes a pilot program to allow up to five States that have assumed Federal responsibility for the National Environmental Policy Act review process to use their State laws and regulations to conduct environmental reviews and approve projects.

# **The FAST Act:**

## **Increasing Transportation Choices and Opportunities**

**The FAST Act includes provisions are intended to improve transportation options, redevelop communities and to expand employment opportunities, particularly for low-income individuals, minorities, and persons with disabilities. Specifically, the Act:**

- *Makes transit-oriented development projects eligible for financing under the Transportation Infrastructure Finance and Innovation Act (TIFIA) and the Railroad Rehabilitation & Improvement Financing (RRIF) programs.*
- *Provides \$2.2 billion for Buses and Bus Facilities formula grants and \$1.5 billion in discretionary grants for bus and bus facilities.*
- *Expands access to public transportation workforce opportunities through training, educational programs, technical assistance grants. The employment training program includes specific outreach to increase employment for veterans, females, individuals with disabilities, and minorities.*
- *Establishes a Pilot Program to support projects that improve transportation coordination for the transportation disadvantaged, including seniors and individuals with disabilities.*
- *Expands design flexibility and local control by opening an option for certain local governments to use a design guide for their street network that differs from their State's adopted design guide.*
- *Supports efforts to increase connectivity by improving bicycle and pedestrian networks.*

## **The FAST Act: Innovative Finance**

**The FAST Act restructures the Department's credit and innovative finance programs.**

The Act creates the National Surface Transportation and Innovative Finance Bureau, a new office intended to help streamline and improve the application process for the Department's credit assistance programs. Specifically, the FAST Act:

- **Leveraging Federal Dollars.** The Transportation Infrastructure Finance and Innovation Act (TIFIA) program leverages federal dollars by facilitating private participation in transportation projects and encouraging innovative financing mechanisms that help advance projects more quickly. While the FAST Act cuts funding to the TIFIA program, it reduces the minimum project size for TIFIA, provides funding to cover the loan evaluation costs typically borne by the borrower, and provides flexibility to States to use Federal formula dollars to cover credit subsidy costs.
- **Increases Eligible Projects Under RRIF.** The Railroad Rehabilitation and Improvement Financing (RRIF) program lends funds to entities that are building rail infrastructure. The FAST Act makes transit-oriented-development elements of passenger rail station projects eligible for RRIF.

The FAST Act creates the **National Surface Transportation and Innovative Finance Bureau** (Bureau) to provide assistance and communicate best practices to project sponsors looking to take advantage of DOT credit programs. The Bureau will help:

- **Streamline the application process for DOT credit programs.** The FAST Act directs the Bureau to improve the application processes for Departmental credit programs through streamlined review and transparent approval processes.
- **Promote innovative financing best practices for Public Private Partnerships (PPP) across all modes.** The FAST Act ensures DOT credit assistance provided to PPP projects is transparent to the public.
- **Coordinate the progress of environmental review and permitting process.** Consistent with the Department's goals to improve project timelines, the Act requires the Bureau to coordinate efforts to improve efficiency and effectiveness of the environmental review and permitting processes.