JURISDICTION AND ACTIVITIES
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT
116TH CONGRESS
February 2019

I. OVERVIEW

A. PROGRAMS OF JURISDICTION

The Subcommittee on Highways and Transit is responsible for the development of Federal surface transportation policy and the authorization of programs for the construction and improvement of highway and transit facilities, highway and transit safety, commercial motor vehicle and driver safety, and research and innovation programs. Related to these responsibilities, the Subcommittee has jurisdiction over the following modal administrations and offices within the U.S. Department of Transportation (DOT):

- Federal Highway Administration (FHWA);
- Federal Transit Administration (FTA);
- Federal Motor Carrier Safety Administration (FMCSA);
- National Highway Traffic Safety Administration (NHTSA) (partial);
- Office of the Assistant Secretary for Research and Technology;
- National Surface Transportation and Innovative Finance Bureau; and
- Office of the Secretary of Transportation

In the course of discharging its responsibilities, the overriding objectives of the Subcommittee are to: (1) ensure federal transportation policies and programs can meet current and future needs; (2) provide adequate resources to states, Indian tribes, and localities to carry out programs and projects authorized by federal law; (3) ensure that states, Indian tribes, and localities can deliver projects efficiently and effectively with federal funds; (4) maintain the direct linkage between federal investment in transportation programs and dedicated revenues coming into the Highway Trust Fund; (5) review program implementation by federal agencies; (6) monitor emerging transportation technologies and mobility solutions; and (7) advance more resilient transportation networks to withstand natural disasters and other catastrophic events.

II. FEDERAL-AID HIGHWAY PROGRAM

A. OVERVIEW OF THE FEDERAL-AID HIGHWAY PROGRAM

1. Background

The Federal-aid Highway Program is a federally assisted, state managed and operated program in which the states are responsible for the planning, design, and construction of highway projects, as well as operating and maintaining major roads. The federal government provides funding and technical assistance to state and local governments for constructing, preserving, and improving the National Highway System (NHS) and other urban and rural roads that, though not on the NHS, are eligible for federal aid.

2. Federal Assistance for Highway Construction

Federal assistance for highway construction dates back to the early 20th century when $500,000 was provided in the Post Office Appropriation Bill of 1912. Much expanded federal assistance began with the *Federal-Aid Highway Act of 1944*, which authorized the construction of a

"National System of Interstate Highways." However, the construction program did not get off to a good start due to, among other things, the lack of a sound financing mechanism.

The landmark *Federal-Aid Highway Act of 1956* (P.L. 84-627) authorized a 41,000-mile National System of Interstate and Defense Highways. The 1956 Act also established the Highway Trust Fund (HTF) into which were deposited receipts from federal excise taxes paid by highway users, to be used for the highway program. This dedicated funding mechanism provided financial certainty for the highway program, including the Interstate Program. The 13-year authorization of the 1956 Act gave the states and highway construction industry the continuity needed to develop and build highway projects and the Interstate System.

The Interstate System was established as a cost-to-complete system. As a general rule, each route was required to meet certain design specifications. Every state was provided federal funding to cover 90 percent of the cost of constructing its route segments; the state provided the remaining ten percent. With the enactment of *Intermodal Surface Transportation Efficiency Act of 1991* (ISTEA) (P.L. 102-240), the Interstate System was declared complete with only a few short segments remaining to be constructed. The final funding for these segments were apportioned to the states in fiscal year 1995.

With the Interstate System mostly completed, the major focus of the Federal-aid Highway Program shifted to:

- Supporting the NHS, an approximately 220,000-mile network of Interstate highways and other major road networks that carries 40 percent of U.S. highway traffic;
- Guaranteeing that taxes collected from highway users are used to maintain and improve U.S. surface transportation infrastructure;
- Developing an efficient intermodal surface transportation system that enhances passenger travel and freight shipment;
- Ensuring the safety and security of U.S. highways and bridges;
- Expediting the delivery of federal-aid highway projects; and
- Expanding the forms of federal financial assistance for highway project development and construction.

Since 1995, multi-year surface transportation authorization bills enacted by Congress include: the *Transportation Equity Act for the 21st Century* (TEA-21) (P.L 105-178) enacted in 1998, the *Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users* (SAFETEA-LU) (P.L. 109-59) enacted in 2005, and the *Moving Ahead for Progress in the 21st Century Act* (MAP-21) (P.L. 112-141) enacted in 2012. Most recently, Congress enacted the *Fixing America's Surface Transportation Act* (FAST Act) (P.L 114-94), on December 4, 2015. The FAST Act reauthorized federal surface transportation programs through September 30, 2020, and provided $281 billion in guaranteed funding for highway, transit, and highway safety programs.

B. FUNDING THE FEDERAL-AID HIGHWAY PROGRAM

1. The Highway Trust Fund

The Federal-aid Highway Program is user-fee financed through federal excise taxes levied on

motor fuels and on various highway-related products such as tires and heavy trucks. Revenues from these taxes are deposited into the HTF and may be used only for eligible transportation projects and activities.

When the HTF was established in 1956, the excise tax rate for highway use of motor fuels was three cents per gallon. Since then the tax rate and structure have been revised several times. The current rates of 18.4 cents per gallon of gasoline and 24.4 cents per gallon of diesel went into effect on October 1, 1993.

Until 1982, all receipts from motor fuel taxes were deposited into the HTF. The *Surface Transportation Assistance Act of 1982* (P.L. 97-424) increased the tax rates from four cents per gallon to nine cents per gallon, established separate Highway and Mass Transit accounts within the HTF, and deposited one cent out of the nine cents per gallon into the Mass Transit Account.

The *Superfund Amendments and Reauthorization Act of 1986* (P.L. 99-499) raised the rates to 9.1 cents per gallon of gasoline and 15.1 cents per gallon of diesel, and deposited the revenues generated from that increase into the newly established Leaking Underground Storage Tank Trust Fund. The *Omnibus Budget Reconciliation Act of 1990* (1990 Budget Act) (P.L. 101-508) allowed the increase to lapse on September 30, 1996.

The 1990 Budget Act also raised the fuel tax rates by five cents per gallon to 14.1 cents per gallon of gasoline and 20.1 cents per gallon of diesel. For the first time, a portion of the taxes, 2.5 cents per gallon, was put into the General Fund for deficit reduction. Revenues from that 2.5 cents per gallon tax were restored to the HTF on October 1, 1995.

The *Omnibus Budget Reconciliation Act of 1993* (P.L 103-66) raised fuel tax rates by another 4.3 cents per gallon to 18.4 cents per gallon for gasoline and 24.4 cents per gallon for diesel and deposited all the receipts from that increase into the general fund for deficit reduction. The *Taxpayer Relief Act of 1997* (P.L. 105-34) redirected the receipts from the 4.3 cents per gallon rate hike back to the HTF (80 percent to the Highway Account and 20 percent to the Mass Transit Account). The Act also reinstated the lapsed 0.1 cent per gallon fuel taxes for the Leaking Underground Storage Tank Trust Fund.

Currently, of the 18.4 cents per gallon federal excise tax on gasoline, 15.44 cents is deposited into the Highway Account, 2.86 cents is deposited into the Mass Transit Account, and 0.1 cent is deposited into the Leaking Underground Storage Tank Trust Fund. Of the 24.4 cents per gallon federal excise tax on diesel, 21.44 cents is deposited into the Highway Account, 2.86 cents is deposited into the Mass Transit Account, and 0.1 cent is deposited into the Leaking Underground Storage Tank Trust Fund.

The user pays principle has been a hallmark of federal surface transportation investment for over 60 years. However, Congress has not raised the federal motor fuel taxes in 25 years, and in that time the fuel taxes have lost over 40 percent of its purchasing power. Improved vehicle fuel efficiency has further eroded federal revenues. This combination has created a gap between revenues coming in to the HTF and expenditure levels. Beginning in fiscal year 2008, and in each subsequent fiscal year to date, HTF outlays have exceeded revenues received from these sources. To ensure that the HTF can continue to pay its obligations, Congress has transferred amounts from the general fund of the Treasury and other sources into the HTF. Since fiscal year 2008, Congress has

transferred approximately $144 billion to the HTF.

In recent years, there has been a growing focus on a mileage-based user fee, which levies a tax on vehicle miles traveled (VMT), as a potential future substitute for the current motor fuels tax. This user fee addresses the challenges of how to capture rising fuel efficiency and electric vehicles. Pilot programs are currently underway in several states to test different VMT collection methods as well as address its own challenges.

2. Funding Structure

The Federal-aid Highway Program is different from almost all other federal programs in that it is funded almost entirely through a type of budget authority known as "contract authority." Congress originally authorized the use of contract authority for the highway program in the *Federal-Aid Highway Act of 1921*. Using contract authority, the Secretary of Transportation (Secretary) is able to give states advance notice of the size of the Federal-aid Highway Program at the time an authorization act is signed into law and commit to reimburse states for eligible costs they incur without a separate annual appropriation of funding. Contract authority from the HTF has been important to the states in eliminating much of the uncertainty inherent in the appropriations process, and it enables states to carry out long-term highway construction projects.

With contract authority, funding authorized for the Federal-aid Highway Program for a fiscal year are available for distribution to the states on the first day of that fiscal year via a formula provided in law (apportionment) or based upon congressional mandate or administrative discretion (allocation). Apportionments are made for core highway programs determined in statute, which also specifies eligibility requirements governing the types of projects that may be funded under each program. When a state receives its apportionments, it can obligate amounts against the apportionments for approved projects. Approval of a project by the Secretary constitutes a contract under which the U.S. agrees to reimburse the state for the federal share of the cost of the project. States actually pay the costs of the project first and then submit vouchers to DOT for reimbursement.

Obligation authority is distributed annually to the states in proportion to each state's share of the core highway programs. On the first day of each fiscal year, each state receives its full apportionment of contract authority for the core highway programs, as well as an amount of obligation authority that traditionally has been less than its apportioned contract authority. As a result, states have been prevented from obligating all of their apportionments. With a few exceptions, each state can use its obligation authority as it chooses among the core highway programs. This flexibility allows the states to focus their investments according to their respective priorities.

C. CORE HIGHWAY APPORTIONMENT PROGRAMS

The Federal-aid Highway Program consists of a series of core programs, which are described below. The programs are funded by the Highway Account of the HTF.

1. National Highway Performance Program

The National Highway Performance Program (NHPP) provides support for the condition and performance of the NHS by providing funding for resurfacing, restoring, rehabilitating, and reconstructing the system. The NHS is an approximately 220,000 mile network of Interstate highways, strategic defense routes, principal urban and rural arterials, and connector routes linking arterials and major intermodal transportation facilities. The NHPP also provides funding for the construction, improvement, and inspection of bridges on the NHS. States may fund a project on a bridge that is on the Federal-aid highway system, but not on the NHS with their NHPP funding.

2. Surface Transportation Block Grant Program

The Surface Transportation Block Grant Program (STBGP) provides funding that may be used by states and localities for projects on any federal-aid highway, bridge projects on any public road, transit capital projects, and intracity and intercity bus terminals and facilities, among other eligibilities. The FAST Act increased the amount of STBGP funding that is distributed to local governments from 50 percent to 55 percent over the life of the bill. Since enactment of the FAST Act, the Transportation Alternatives Program is funded as a set-aside within the STBGP program, and this funding may be used for broader eligibilities under certain circumstances.

3. Highway Safety Improvement Program

The Highway Safety Improvement Program (HSIP) provides funding to states that have an approved strategic highway safety plan to significantly reduce traffic fatalities and serious injuries on public roads. Funding provided under the program is apportioned to the states to implement highway safety improvement projects, which are included in a state's plan, to correct or improve hazardous road locations and features, or to address highway safety problems. HSIP includes a funding set-aside to address safety issues at rail-highway grade crossings.

4. Congestion Mitigation and Air Quality Improvement Program

The Congestion Mitigation and Air Quality Improvement (CMAQ) Program supports implementation of transportation projects and programs in areas designated as nonattainment or maintenance areas for ozone, carbon monoxide, or particulate matter under the Clean Air Act, if the projects or programs are effective in reducing air pollution, contributing to the attainment of national ambient air quality standards, or improving traffic flow.

5. National Highway Freight Program

The FAST Act created a new formula program, the National Highway Freight Program (NHFP), to improve the movement of freight on the surface transportation system. There is limited eligibility for intermodal and freight rail projects within the NHFP. The FAST Act also modified the National Highway Freight Network created by MAP-21, and requires the redesignation of the Network every five years to reflect changes in freight flows.

6. State and Metropolitan Planning Programs

States are required to use planning funding for statewide and nonmetropolitan transportation planning activities in accordance with section 135 of title 23, United States Code, and are required to make funding available to Metropolitan Planning Organizations (MPOs) for metropolitan transportation planning activities under section 134 of title 23, United States Code. The amount of planning funding allocated to each MPO within a state will be determined by a number of factors, including population, air quality, status of transportation planning, and transportation needs of the metropolitan area. These planning activities are jointly administered by FHWA and FTA.

D. ALLOCATED PROGRAMS

In addition to apportionment programs, the Federal-aid Highway Program includes allocated programs. The allocated programs are funded by the Highway Account of the HTF. Funding for these programs is distributed according to congressional mandate or administrative discretion. These programs include, but are not limited to, the Federal Lands Transportation Program, the Territorial and Puerto Rico Highway Program, the Tribal Transportation Program, and the ferry program under section 147 of title 23, United States Code. The FAST Act continued these programs. The FAST Act also established a tribal transportation self-governance program, which allows tribes who demonstrate transportation management capacity to receive all of their DOT funds under one agreement, reducing administrative burdens and increasing efficiency for tribes.

The FAST Act also established the Nationally Significant Freight and Highway Projects program, renamed first as FASTLANE and then INFRA by DOT, which is funded out of the Highway Account of the HTF. The INFRA program provides grants to eligible applicants to address large-scale highway, bridge, and highway freight projects of national or regional importance. Intermodal and freight rail projects are eligible to compete for a portion of INFRA funding provided such projects meet certain criteria.

The FAST Act also expanded eligibility for the Transportation Infrastructure Finance and Innovation Act (TIFIA) program by allowing states to use NHPP, STBGP, and INFRA grant funding to pay the subsidy and administrative costs associated with providing TIFIA credit assistance. The FAST Act made additional modifications to improve access to the TIFIA program and expand leveraging opportunities. The FAST Act also reinstated the ability of a state to capitalize their state infrastructure bank with their federal-aid highway funding for fiscal years 2016 through 2020.

E. ACTIVITIES IN THE 115TH CONGRESS

Hearings:

- Hearing titled, "Building a 21st Century Infrastructure for America" (February 1, 2017).

- Hearing titled, "FAST Act Implementation: State and Local Perspectives" (March 15, 2017).

- Hearing titled, "FAST Act Implementation: Improving the Safety of the Nation's Roads" (July 18, 2017).

- Hearing titled, "Building a 21st Century Infrastructure for America: Highways and Transit Stakeholders' Perspectives" (October 11, 2017).

- Hearing titled, "Building a 21st Century Infrastructure for America: Long-Term Funding for Highways and Transit Programs" (March 7, 2018).

III. FEDERAL TRANSIT PROGRAM

A. OVERVIEW AND FUNDING

Federal funding for U.S. public transportation systems dates back to 1964 with the enactment of the *Urban Mass Transportation Act* (P.L. 88-365). The measure provided $375 million in capital assistance over three years. This law set the stage for the current program of financial assistance for mass transportation managed and run by the FTA.

Federal transit programs are primarily funded from revenues in the Mass Transit Account of the HTF, but a portion of the funding – approximately 20 percent – comes from the General Fund of the U.S. Treasury. General funds are used for capital investment grant funding, some innovation and workforce development activities, and administrative expenses.

Each federal transit program's source or sources of funding has changed over time. Under TEA-21, federal transit programs received a mix of funding from the Mass Transit Account and from the general fund. SAFETEA-LU, beginning in fiscal year 2006, changed this structure and instead funded each program exclusively from either the Mass Transit Account or the general fund, eliminating any mix of funding sources within one program. MAP-21 continued the model from SAFETEA-LU, funding discrete activities from one source. The FAST Act authorized the Mass Transit Account and general funds for Sec 5312 (Public Transportation Innovation) and Sec. 5314 (Technical Assistance and Workforce Development).

B. GRANT PROGRAM STRUCTURE

Federal transit funding is provided to designated recipients, who include publicly owned operators of transit systems, local officials, state governors, and Indian Tribes in the form of formula grants. The majority of grants are for capital purchases. However, federal operating assistance grants are also available for areas with lower density populations where transit systems cannot cover the cost of operations, and for smaller transit systems operating in large urbanized areas.

In order to obtain federal transit funding, a designated recipient must submit a grant application to the FTA. When the grant is approved and the funding is obligated, the designated recipient proceeds with its procurement process or receives reimbursement for expenditures that have already been made. Federal funding pays for a portion, or the federal share, of a project's costs. State or local funding, termed "matching funds," must also be expended on a project. Capital

formula grants are provided with a federal share up to 80 percent, and operating assistance grants are provided at a lower federal share.

C. FORMULA GRANT PROGRAMS

1. Urbanized Area Formula Grants Program

The Urbanized Area Formula Grant Program is funded from the Mass Transit Account. Currently, there are nearly 500 urbanized areas nationwide as determined by the Census Bureau. An urbanized area is defined as an area containing 50,000 people or more.

Formula funding is distributed to transit systems in those areas based on a number of factors, including population, vehicle miles traveled, and transit ridership. Formula funding may be used for capital expenses, such as the purchase of new buses or trains, or for capital replacement, such as rehabilitation and refurbishment of existing transit assets, in order to ensure that customers continue to receive safe and reliable public transportation. The Urbanized Area Formula Grant Program also includes funding for the Growing States and the High Density States programs. In addition, it allows transit agencies to use their formula funding for operating assistance if they are in urbanized areas with populations of less than 200,000 or in urbanized areas with populations of more than 200,000 and they operate 100 buses or less.

2. Rural Area Formula Grants

The Rural Formula Program provides assistance to public transit projects in rural and small urban areas (defined as areas of less than 50,000 in population). The Rural Formula Program can be used for both capital and operating expenses.

The Rural Formula Program distributes 20 percent of the funding through a formula based on land area, helping to offset the greater cost of providing transit services in large, expansive areas. The remaining 80 percent of the funding is allocated under the process originally established under TEA-21 and maintained in SAFETEA-LU, MAP-21, and the FAST Act. Of the amount a state receives from this process, a state must use 15 percent of that funding for intercity bus service projects unless the governor certifies that all intercity bus needs have been met.

The FAST Act provides funding for the Public Transportation on Indian Reservations program through a set aside within the Rural Formula Program. The purpose of this program is to provide public transportation on Indian reservations. The FAST Act also continued the set-aside within the rural program for the Appalachian Development Public Transportation Assistance program.

3. Enhanced Mobility of Seniors and Individuals with Disabilities Program

The Enhanced Mobility of Seniors and Individuals with Disabilities Program provides federal assistance for the costs of providing transportation services for the elderly and transit-dependent disabled population, including paratransit service, and for facility improvements to address the transportation needs of persons with disabilities that exceed the requirements of the Americans with Disabilities Act. The program is funded out of the Mass Transit Account. Funding is distributed to states by a formula and may be used to assist nonprofit groups, transit operators, or

local governments in meeting these transportation needs. Funding is apportioned based on each state's share of the targeted populations.

The FAST Act provided dedicated Mass Transit Account funding for competitive grants to local entities that are taking innovative approaches to providing public transportation services to seniors and individuals with disabilities.

4. State of Good Repair Grants

The FAST Act continued the grant program to maintain public transportation systems in a state of good repair. This program was created in MAP-21 and replaced the fixed guideway modernization program. Funding of State of Good Repair grants is limited to fixed guideway systems, including rail, bus rapid transit (BRT), and passenger ferries, as well as high-intensity bus operations (buses operating in high occupancy vehicle lanes). Projects are limited to replacement and rehabilitation, or capital projects required to maintain public transportation systems in a state of good repair. Projects must be included in a transit asset management plan to receive funding.

5. Buses and Bus Facilities Grants

The FAST Act provided greater, more diverse resources for bus procurement through an enhanced Buses and Bus Facilities Grants Program. Specifically, it continued MAP-21's formula grant program for bus and bus facilities, and added a new competitive grant component for conventional buses and bus facilities. This program provides funding to replace, rehabilitate, and purchase buses and related equipment, and to construct bus-related facilities. Under this program, each state will be guaranteed at least $1.75 million in formula grant funding each year, with the remaining formula grant funding distributed based on population, vehicle revenue miles, and passenger miles. This program requires a 20 percent local match. The FAST Act also incorporated a competitive component for the procurement of No and Low Emission buses and facilities into the overarching program.

6. Fixed Guideway Capital Investment Grants Program (New Starts, Small Starts, and Core Capacity)

The FTA's Fixed Guideway Capital Investment Grants Program provides grants for large projects that cannot be funded from a transit agency's formula grants. The FAST Act authorizes funding for new fixed guideway investment projects (New Starts) as well as projects seeking $100 million or less in federal funding (Small Starts), and substantial corridor-based improvements that increase capacity by 10 percent or more (Core Capacity). This program is funded entirely out of the general fund. The FTA awards grants to projects that make major investments in new and expanded rail and BRT pursuant to a process outlined in statute.

D. TRANSIT SAFETY

The FAST Act continued the FTA's authority to establish and enforce a new comprehensive framework to oversee the safety of public transportation throughout the United States. Under this program, the FTA must develop safety performance criteria for all modes of public transportation as well as minimum safety performance standards for vehicles not regulated by other federal agencies.

As part of this safety program, each state must establish a State Safety Oversight Agency (SSOA) by April 15, 2019. In order to be eligible for FTA funding, each SSOA must develop and implement a safety plan and administer a safety program approved by the FTA that meets minimum federal requirements. SSOAs must exercise oversight over all heavy rail, light rail, and streetcar systems within their respective states. MAP-21 required these agencies to be legally and financially independent from the systems they oversee and to have the authority, staff training, and expertise to enforce federal and state safety laws. This safety program also directs the FTA to distribute funding via formula to support state safety oversight work. A 20 percent local match is required for this funding. In addition, the FAST Act strengthened the FTA's enforcement authority to ensure SSOAs are meeting the safety requirements.

E. PLANNING AND INNOVATION

1. Metropolitan and Statewide Planning Programs

The FAST Act provides funding for metropolitan planning, statewide planning, and other planning programs from the Mass Transit Account. These programs provide planning funding for MPOs and state departments of transportation to help meet the planning requirements of sections 5303, 5304, and 5305 of title 49, United States Code. These planning activities are jointly administered by the FTA and the FHWA.

2. Transit-Oriented Development Planning Pilot Program

The FAST Act continues a competitive pilot program for transit-oriented development planning grants. Eligible activities include comprehensive planning in corridors with new rail, bus rapid transit, or core capacity projects.

3. Research Programs

The FAST Act provides funding for public transportation research, innovation, development, demonstration and deployment, including dedicated funding for low and no emission vehicle component testing, and the Transit Cooperative Research Program.

4. Innovative Procurement

The FAST Act includes provisions related to cost-effective and innovative procurement procedures. It allows for multiple states and providers to purchase capital assets through cooperative interstate procurements, establishes a pilot program to allow nonprofit organizations to enter into cooperative procurement contracts. Under the new procurement procedures, transit agencies can lease equipment or facilities such as low- or no-emission components. Finally, the FAST Act established a Joint Procurement Clearinghouse to allow grantees to co-purchase rolling stock within a system that helps them identify procurement partners.

F. ACTIVITIES IN THE 115TH CONGRESS

Hearings:

- Hearing titled, "Building a 21st Century Infrastructure for America" (February 1, 2017).
- Hearing titled, "FAST Act Implementation: State and Local Perspectives" (March 15, 2017).
- Hearing titled, "Building a 21st Century Infrastructure for America: Highways and Transit Stakeholders' Perspectives" (October 11, 2017).
- Hearing titled, "Building a 21st Century Infrastructure for America: Long-Term Funding for Highways and Transit Programs" (March, 7, 2018).
- Hearing titled, 'Innovation in Surface Transportation" (September, 5, 2018).

IV. MOTOR CARRIERS

A. MOTOR CARRIER SAFETY

The Subcommittee has jurisdiction over all aspects of motor carrier safety, including federal motor carrier safety grant programs, qualifications and regulations applicable to commercial motor vehicle drivers, cross border surface transportation, size and weight standards for commercial motor vehicles, and the few remaining motor carrier economic regulations.

In December 1999, the President signed the *Motor Carrier Safety Improvement Act* (MCSIA) (P.L. 106-159) into law. MCSIA established the Federal Motor Carrier Safety Administration (FMCSA), a new modal agency within DOT with the primary mission of reducing crashes, injuries, and fatalities involving large trucks and buses on U.S. highways. Prior to 2000, motor carrier safety was the responsibility of the FHWA.

1. Motor Carrier Safety Grant Programs

The FMCSA administers motor carrier safety grant programs to support states' efforts to improve commercial motor vehicle safety, regulate the qualifications of commercial drivers, and assess the fitness of motor carriers to operate in interstate commerce. The following programs are funded through the HTF:

- The Motor Carrier Safety Assistance Program (MCSAP), authorized under section 31102 of title 49, United States Code, provides the core of federal funding to states for motor carrier safety enforcement activities. The Secretary of Transportation is authorized to make grants to states for the development and implementation of programs for improving motor carrier safety, and for the enforcement of federal and compatible state commercial motor vehicle and hazardous materials transportation safety regulations. To be eligible for funding, states must submit commercial motor vehicle (CMV) safety plans for approval to the FMCSA and

must ensure that their motor carrier safety laws and regulations are consistent with federal requirements.

- The Commercial Motor Vehicle Operators Grant Program, authorized under section 31103 of title 49, United States Code, provides grants to eligible entities to train individuals in the safe operation of CMVs. Under the program, the Secretary of Transportation may award priority to applications from entities for programs that train veterans for careers as CMV drivers.

- The High Priority Activities Program, authorized under section 31102(l) of title 49, United States Code, provides grants to state and local authorities to carry out activities and projects that increase public awareness and education on CMV safety, deploy innovative safety technologies, and reduce the number and rate of CMV accidents.

- The Commercial Driver's License (CDL) Implementation Program, authorized under section 31313 of title 49, United States Code, provides funding to driver licensing agencies in states to develop, implement, and maintain a CDL program in accordance with federal standards.

The FAST Act requires the FMCSA Administrator to develop a new formula beginning in fiscal year 2017 to allocate motor carrier safety grants among the states based on the recommendations of a working group comprised of state motor carrier safety officials.

2. Commercial Driver Qualifications and Regulations

Congress established a requirement that commercial drivers must hold a single CDL in the *Commercial Motor Vehicle Safety Act of 1986* (P.L. 99-570). The Act was designed to remove unsafe and unqualified commercial drivers from U.S. highways by making it illegal for such drivers to have more than one license. The CDL requirement covers drivers of vehicles weighing more than 26,000 pounds, haulers of hazardous materials requiring placarding, and drivers transporting 15 or more passengers. The 1986 Act further required states to exchange information on commercial drivers through a nationwide information system. States use an electronic clearinghouse, known as CDLIS, to check the driving history of a CDL applicant before issuing the license and to report traffic convictions of commercial drivers licensed in other states. The FAST Act eased many CDL regulations for veterans that received CMV training in the Armed Services and authorized a pilot program to allow individuals with CMV training in the Armed Services, and drivers under the age of 21 to drive such vehicles across state borders.

The *Omnibus Transportation Employee Testing Act of 1991* (P.L. 102-143) required drug and alcohol testing of safety-sensitive employees in the aviation, motor carrier, railroad, and transit industries. In August 2001, the FMCSA published motor-carrier specific rules in Part 382 of title 49, United States Code. The FMCSA drug and alcohol rules apply to safety-sensitive employees who operate commercial motor vehicles requiring a CDL. These rules require drug and alcohol testing under several conditions: pre-employment, reasonable suspicion, post-accident, random, return-to-duty, and follow-up. Section 32402 of MAP-21 required the DOT to establish a clearinghouse of drug and alcohol test results to help ensure that commercial drivers are in compliance with federal drug and alcohol rules. The FMCSA published a final rule in December 2016, to establish the

clearinghouse. The FAST Act required the Secretary of Health and Human Services to issue standards within a year of enactment for testing hair samples for the presence of drugs and alcohol. The Secretary of Health and Human Services has yet to issue the standards. Once such standards are issued, the FMCSA will be authorized to allow motor carriers to test hair samples of commercial motor vehicle drivers for drug use in lieu of urinalysis.

Federal motor carrier safety regulations govern commercial driver hours of service (HOS), or limits on the maximum time that a driver may operate a commercial motor vehicle. On December 27, 2011, the FMCSA issued a final rule in the Federal Register revising the HOS requirements. The final rule:

- Retains the current 11-hour daily driving limit and the 60- and 70-hour weekly driving limits and the maximum "driving window" remains at 14 consecutive hours after coming on-duty.

- Modifies the "34-hour restart" provision to require at least two periods of rest between 1:00 a.m. – 5:00 a.m. and only allows it to be used once during a seven-day period.

- Restricts motor carrier drivers from driving after working eight hours without first taking a break of at least 30 minutes. Drivers can take the 30-minute break whenever they need rest during the eight hour window.

- Reduces by 12 hours the maximum number of hours, on average, a motor carrier driver can work within a week. Under the old rule, truck drivers could work on average up to 82 hours within a seven-day period. The new HOS final rule limits a driver's average work week to 70 hours.

HOS regulations have been the subject of extensive litigation since 2003, when the FMCSA first issued its rule to extend maximum driving time from 10 hours to 11 hours, while increasing the mandatory rest period from 8 hours to 10 hours. In August 2013, a U.S. district court upheld most of the FMCSA's December 2011 final rule, but struck down the 30-minute rest break requirement for short-haul drivers. Subsequently, Congress suspended the nighttime rest requirements under the 34-hour restart provisions contained in the 2011 rule.

A number of exemptions have been provided to certain industries in statute, including utility workers, certain rail construction workers, and agriculture haulers. Exemptions can also be granted administratively, for a period of five years, and are eligible for renewal pursuant to a process outlined in statute. In 2018, the FMCSA further issued guidance to expand the reach of the exemption applicable to transporters of agricultural commodities, including livestock and insects.

Commercial driver hours of service have historically been tracked through paper logbooks. In MAP-21, Congress required long-haul truck drivers to use electronic logging devices (ELDs) to record their hours to ensure compliance with regulations. As of December 2017, all long-haul truck drivers (unless they are covered under an exemption) must now use ELDs.

3. Motor Carrier Safety

There are approximately 500,000 entities registered with the FMCSA to operate commercial

trucks and buses in the United States. The FMCSA carries out several programs and enforces numerous federal motor carrier safety regulations intended to improve the safety of these entities and the over 12 million trucks and buses they operate.

The FMCSA primarily relies on the Compliance, Safety, Accountability (CSA) program to track unsafe truck and bus operating entities and target them for enforcement action. After audits conducted by both the Government Accountability Office (GAO) and the DOT Inspector General uncovered flaws in the methodology the FMCSA used to score the safety of motor carriers under the CSA program, Congress initiated a process to address those issues with the program in the FAST Act. Specifically, the FAST Act required the FMCSA Administrator to commission the National Academies of Sciences, Engineering, and Medicine to conduct a study on ways to improve the CSA program and provide Congress and the Inspector General with a report on the study's findings. The FAST Act further required the FMCSA Administrator to provide a corrective action plan to Congress describing the improvements that will be made to the CSA program. The Inspector General is required to review the corrective action plan and certify that it is responsive to the study's findings. Until the Inspector General can make such certification, the FMCSA is required to remove the CSA scores from public view.

The FAST Act also authorized the FMCSA Administrator to incentivize motor carriers to install the latest safety technology on trucks and buses, adopt enhanced driver safety measures, implement safety management programs, and undertake other safety activities, by having the FMCSA's calculation of safety scores reflect such activities. A mechanism to incorporate these safety activities into safety scores is required to be included in a reformed CSA program.

B. TRUCK SIZE AND WEIGHT

The current framework of laws and regulations governing minimum and maximum weights and lengths for trucks is a complex set of federal standards that apply to the Interstate System and the National Network, a system of approximately 209,000 miles of roads specifically designated in federal regulations. Federal law sets minimum and maximum standards for weight and minimum standards for length of trucks traveling on the Interstate System and the National Network. States have the authority to exercise numerous exceptions to these federal standards. Beyond the Interstate System and National Network, states have the ability to set their own size and weight limitations on all other roads.

Congress enacted the first federal truck size and weight limits as part of the *Federal-Aid Highway Act of 1956* (P.L. 84-627), and these standards were subsequently amended in the *Federal-Aid Highway Amendments Act of 1974* (P.L. 93-643) and again in the *Surface Transportation Assistance Act of 1982* (P.L. 97-424). Each of these acts contained provisions to allow states to continue existing size and weight standards already in place, known as "grandfather rights," even if they allowed heavier vehicles than the new federal standards. In ISTEA Congress enacted a "freeze" on the size and weight of longer combination vehicles, which are defined in the legislation as "any combination of a truck tractor and two or more trailers or semitrailers which operates on the Interstate System at a gross vehicle weight greater than 80,000 pounds."

Current federal weight limits, which are applicable only on the Interstate System, are set in section 127 of title 23, United States Code, at 20,000 pounds on a single axle; 34,000 pounds on a tandem axle; and 80,000 pounds gross vehicle weight. Federal law prohibits a state from prescribing

weight limits that are more or less than the federal limits unless it has grandfather rights. In addition to the overall weight standards, a state must meet the requirements of the Federal Bridge Formula, unless it has grandfather rights from 1974. Section 127 has additional statutory exemptions from the weight standards beyond the above-mentioned grandfather rights.

Current truck size laws are codified in sections 31111 through 31115 of title 49, United States Code. Federal length and width laws apply on both the Interstate System and the broader National Network. Federal law requires a width of 102 inches to operate on the National Network, and federal law prohibits a state from prescribing standards of more or less than this measurement. There is no federal length limit on the National Network; instead, federal law requires a minimum 28-foot length for trailers in a double combination and 48-foot length for a semitrailer. There is no federal standard for vehicle height.

In April 2016, the FHWA released its Final Comprehensive Truck Size and Weight Study required by section 32801 of MAP-21. The study did not include any recommended changes to current law governing truck size and weight due to a lack of sufficient data on the impacts of increased truck size and weight on infrastructure and safety.

C. ECONOMIC REGULATION

Most federal economic regulation of the trucking industry ended in 1980. Federal economic regulation of the intercity bus industry ended in 1982. On January 1, 1996, the Interstate Commerce Commission (ICC), which had primary jurisdiction over the remaining economic regulation of the motor carrier industry, was terminated by Congress in the *ICC Termination Act of 1995* (P.L. 104-88). In this Act, some former ICC functions were eliminated, while the remaining responsibilities were transferred to either the Office of Motor Carriers within the FHWA or to the newly created Surface Transportation Board, which is now a completely independent agency.

Companies that operate commercial vehicles transporting passengers or hauling cargo in interstate commerce must be registered with the FMCSA and must have a DOT Number. Also, commercial intrastate hazardous materials carriers who haul quantities requiring a safety permit must register for a DOT Number. In addition, motor carriers that operate for compensation and transport passengers or property in interstate commerce, as well as brokers or freight forwarders of property, are also required to obtain operating authority from the FMCSA. Operating authority dictates the type of motor carrier operations a company may conduct, the cargo it may carry, and the geographical area in which it may legally operate. Carriers not required to have operating authority include private carriers and carriers that exclusively haul commodities exempt from federal regulations. To obtain operating authority, a carrier must exhibit that the company is fit, willing, and able to provide transportation services and comply with federal regulations, including passing a new entrant safety audit, as well as provide proof of a minimum level of liability insurance.

The *Federal Aviation Administration Authorization Act of 1994* (P.L. 103-305) preempted State laws that regulate the prices, routes, and services provided by motor carriers of property in intrastate commerce. States are not preempted from regulating safety, financial fitness, insurance, vehicle size and weight, and hazardous materials routings. Household goods movers can also still be regulated at a state level.

D. ACTIVITIES IN THE 115TH CONGRESS

Hearings:

- Hearing titled, "FAST Act Implementation: State and Local Perspectives" (March 15, 2017).
- Hearing titled, "FAST Act Implementation: Improving the Safety of the Nation's Roads" (July 18, 2017).
- Roundtable discussion titled, "Emerging Technologies in the Trucking Industry" (December 7, 2017).
- Hearing titled, "FAST Act Implementation: Motor Carrier Provisions" (May 22, 2018).

V. HIGHWAY SAFETY

Highway safety programs are administered primarily by the National Highway Transportation Safety Administration (NHTSA) and funded through the HTF. The NHTSA's mission is to save lives, prevent injuries, and reduce economic costs due to traffic accidents on U.S. roadways, through education and research, and by promulgating and enforcing safety standards. The FAST Act reauthorized the behavioral highway safety programs of the NHTSA.

A. STATE HIGHWAY SAFETY GRANTS

Section 402 of title 23, United States Code, requires states to have safety plans approved by the Secretary and designed to reduce fatalities, injuries, and property damage resulting from traffic accidents. Funding is distributed to states with approved plans through a formula based on population and public road mileage. The FAST Act increased funding to carry out state highway safety plans and reduced administrative burdens on states.

B. HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

Section 403 of title 23, United States Code, authorizes the Secretary of Transportation to conduct research and carry out demonstration projects on highway safety and traffic conditions, driver behavior, fatigued driving and distracted driving, alcohol impaired driving countermeasures, older drivers, and motorcycle safety. The FAST Act increased funding for highway safety research and development activities.

C. HIGH VISIBILITY ENFORCEMENT PROGRAM

SAFETEA-LU authorized funding to be used to conduct at least three high-visibility, safety law enforcement campaigns each year. The campaigns are to address two issues: alcohol-impaired or drug-impaired driving and seat belt usage. Funding may also be used for advertising and for an annual evaluation to determine the effectiveness of the campaigns. The FAST Act increased funding for the High Visibility Enforcement Program and codified it as section 404 of title 23, United States

Code.

D. NATIONAL PRIORITY SAFETY PROGRAMS

Section 405 of title 23, United States Code, authorizes the Secretary of Transportation to make grants to states that adopt or implement programs or laws to increase the use of occupant protection devices; improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of state safety data; reduce the number of alcohol-impaired driving fatalities; encourage the adoption of laws which prohibit distracted driving; improve motorcyclist safety; and encourage the adoption of state graduated driver licensing laws. Each state must meet specific criteria in each national priority program to qualify for funding.

The FAST Act enabled states to spend more funding on the pressing safety needs unique to their state by increasing the percentage of National Priority Safety Program funding that can be flexed to each state's traditional safety program under section 402 of title 23, United States Code. It also reformed the Impaired Driving Countermeasures, Distracted Driving, and State Graduated Driver License Incentive programs to reduce barriers to state eligibility and improve incentives for states to adopt laws and regulations to improve highway safety. Finally, the FAST Act authorized five percent of National Priority Safety Program funding to be spent on a new initiative on nonmotorized safety. States with combined pedestrian and bicycle fatalities that exceed 15 percent of total crash fatalities in that state are eligible to receive grant funding under the nonmotorized safety initiative to reduce such fatalities.

E. ACTIVITIES IN THE 115TH CONGRESS

Hearings:

- Hearing titled, "Building a 21st Century Infrastructure for America" (February 1, 2017).
- Hearing titled, "FAST Act Implementation: Improving the Safety of the Nation's Roads" (July 18, 2017).
- Hearing titled, "Building a 21st Century Infrastructure for America: Highways and Transit Stakeholders' Perspectives" (October 11, 2017).

VI. INNOVATION

A. SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT, AND DEPLOYMENT PROGRAM

Under section 502 of title 23, United States Code, the Secretary of Transportation is required to carry out research, development, and deployment activities that address current and emerging highway transportation needs in the following areas: improving highway safety, improving infrastructure integrity, strengthening transportation planning and environmental decision making, reducing congestion, improving highway operations and freight productivity, and exploratory advanced research. The section 502 program provides assistance for efforts to accelerate the

implementation and delivery of new innovations and technologies that result from highway research and development.

The FAST Act established a competitive advanced transportation and congestion management technologies deployment grant program to promote the use of innovative transportation solutions. The deployment of these technologies will provide Congress and the DOT with valuable real-life data and feedback to inform future decision making. The FAST Act also established a competitive Surface Transportation System Funding Alternatives grant program to incentivize states to experiment with alternative user fee based funding mechanisms to help maintain the solvency of the HTF.

B. TRAINING AND EDUCATION

The FAST Act continue the activities under section 504 of title 23, United States Code, funding the National Highway Institute, the Local Technical Assistance Program, the Garrett A. Morgan Technology and Transportation Education Program, and the Dwight D. Eisenhower Transportation Fellowship Program. These programs provide education and training to federal and state transportation workers and officials.

C. BUREAU OF TRANSPORTATION STATISTICS

The Bureau of Transportation Statistics (BTS) is charged with compiling and creating a variety of transportation statistics and documents. This work includes a long-term data collection program, the National Transportation Library, the National Transportation Atlas Database, the Commodity Flow Survey, and the Transportation Statistics Annual Report. The FAST Act provided for the collection of statistics on port capacity and throughput for the 25 largest ports to be reported annually by the BTS.

D. UNIVERSITY TRANSPORTATION RESEARCH

The FAST Act reauthorized the activities of the University Transportation Research program, which awards grants to University Transportation Centers (UTCs) focusing on various areas of surface transportation research. There are five National UTCs, ten Regional UTCs, and up to 20 Tier I UTCs, the FAST Act required all of the UTCs to be competitively selected.

E. INTELLIGENT TRANSPORTATION SYSTEMS

The goal of the Intelligent Transportation Systems (ITS) program is to research and develop intelligent systems and technologies to create a more efficient, safe, and reliable transportation system. Components of the ITS program include research and development, national architecture and standards, and road weather research and development. The FAST Act ensures the ITS program is implemented and deployed in a technology neutral manner. ITS eligibility is also included in various core highway programs and federal transit programs.

F. ACTIVITIES IN THE 115TH CONGRESS

Hearings:

- Hearing titled, "Building a 21st Century Infrastructure for America" (February 1, 2017).
- Roundtable discussion titled, "Emerging Technologies in the Trucking Industry" (December 7, 2017).
- Hearing titled, "Innovation in Surface Transportation" (September, 5, 2018).

VIII. OTHER SIGNIFICANT FAST ACT PROVISIONS

A. MULTIMODAL FREIGHT TRANSPORTATION

The FAST Act focused attention on the importance of multimodal freight transportation as a foundation for the U.S. to compete in the global economy. It established a multimodal freight policy and a national multimodal freight strategic plan and designated a National Multimodal Freight Network to assist states in strategically directing resources and informing freight transportation planning.

The FAST Act encouraged each state to establish a freight advisory committee comprised of freight stakeholders to provide input on freight projects and funding needs. Further, states are required to develop a fiscally constrained freight plan, either independently or incorporated into the broader transportation planning process.

B. NATIONAL SURFACE TRANSPORTATION AND INNOVATIVE FINANCE BUREAU

The FAST Act established the National Surface Transportation and Innovative Finance Bureau (Bureau) within the DOT. The Bureau will serve as a one-stop-shop for states and local governments to receive federal financing or funding assistance, as well as technical assistance, in order to move forward with complex surface transportation projects. It directs the Bureau to administer the application process for various credit assistance programs and the NSFHP program; promote innovative financing best practices; reduce uncertainty and delays with environmental reviews and permitting; and reduce costs and risks to taxpayers in project delivery and procurement. The FAST Act also gives the Secretary of Transportation the authority to consolidate or eliminate different offices within the DOT.

Finally, the FAST Act established a Council on Credit and Finance (Council) within the DOT. It requires the Council to review applications for various credit assistance programs and the NSFHP program, as appropriate, and then make recommendations to the Secretary of Transportation about which applications should receive federal financing or funding assistance.

C. ACTIVITIES IN THE 115TH CONGRESS

Hearings:

- Hearing titled, "Building a 21st Century Infrastructure for America" (February 1, 2017).
- Hearing titled, "Building a 21st Century Infrastructure for America: Long-Term Funding for Highways and Transit Programs" (March, 7, 2018).