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# Department of Transportation (DOT): FY2016 Appropriations

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# Summary

On February 2, 2015, the Obama Administration proposed a $93.7 billion budget for the Department of Transportation (DOT) for FY2016. That is about $22 billion (31%) more than was provided in FY2015. The budget request for DOT reflected the Administration's call for significant increases in funding for highway, transit, and rail programs. Neither the surface transportation reauthorization legislation (H.R. 22) that the House and Senate are currently negotiating nor the DOT appropriations bill as passed by the House or reported out by the Senate Committee on Appropriations (H.R. 2577) would increase transportation funding on the scale requested by the Administration.

The annual appropriations for DOT are combined with those for the Department of Housing and Urban Development in the Transportation, Housing and Urban Development, and Related Agencies (THUD) appropriations bill. The House has passed H.R. 2577, which would provide FY2016 appropriations for THUD. The House-passed version of H.R. 2577 would provide $70.6 billion for DOT, $1 billion less than DOT received in FY2015 (after rescissions are subtracted from the FY2015 total, the difference is reduced to $646 million) and $23 billion less than the Administration request.

The House-passed bill cuts funding for Amtrak by $242 million (17%) from its FY2015 level, to $1.148 billion, less than half the amount requested by the Administration. The House Appropriations Committee marked up the bill one day after an Amtrak passenger train derailed in Philadelphia, which raised the profile of the cuts to Amtrak funding. The House-passed bill also includes significant cuts to the TIGER discretionary grant program and the transit New Starts program. These three programs account for most of the bill's cut in transportation funding from the FY2015 level.

The Senate Committee on Appropriations reported a version of H.R. 2577 providing $71.3 billion for DOT, a reduction of $368 million from the FY2015 level (after rescissions are subtracted from the FY2015 total, the difference is reduced to $17 million) and $22 billion less than the Administration request. The committee recommended funding the TIGER grant program and Amtrak at their FY2015 levels. It recommended a 25% ($535 million) cut to the New Starts transit grant program, the major change in the recommended FY2016 levels from FY2015 levels.

On November 18, 2015, the Senate Committee on Appropriations released a substitute amendment to H.R. 2577 that would increase DOT discretionary funding by $690 million, reflecting the Balanced Budget Act of 2015 (which increased the amount of budget authority for FY2016). Specifically, the substitute amendment would change the following accounts:

- Under the Office of the Secretary, the National Infrastructure Investment (TIGER) grant account would change from $500 million to $600 million.
- The Federal Aviation Administration Facilities and Equipment account would change from $2.6 billion to $2.855 billion.
- The Federal Transit Administration Capital Investment grant (New Starts) account would change from $1.585 billion to $1.896 billion.
- The Maritime Administration account would change from $373 million to $397 million.

On December 18, 2015, the DOT Appropriations Act was passed as Title I of Division L of P.L. 114-113. The tables in this report have been updated to reflect the enacted numbers. The remainder of this report has not been updated to reflect the substitute amendment or enacted bill.

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# Introduction

The Obama Administration released its FY2016 budget request on February 2, 2015. It requested $93.7 billion for the Department of Transportation (DOT), $22 billion (31%) more than DOT received in FY2015. This request reflected the Administration's proposal for reauthorizing the federal surface transportation program and restructuring accounts and funding sources in several DOT sub-agencies. Around 75% of DOT's funding is mandatory budgetary authority, and the Administration's request maintained this split, with $24 billion of the request coming from discretionary budgetary authority—$6 billion (33%) more than provided in FY2015.

DOT's discretionary budget allocation is shared with the Department of Housing and Urban Development, as the allocation is given to the Transportation, Housing and Urban Development, and Related Agencies (THUD) appropriations bill. The discretionary funding allocation given to the House THUD subcommittee for FY2016 was $55.27 billion, $1.5 billion (3%) higher than the enacted FY2015 funding; most of that increase would cover a decline in offsetting receipts to HUD accounts in FY2016. With other changes in offsets recommended by the House Appropriations Committee, the net increase in discretionary funding is $25 million, and the committee recommended a $25 million reduction in mandatory funding, so there is no net change in actual funding in the committee-recommended House THUD bill from FY2015. The Senate THUD allocation was $55.646 billion, $376 million more than the House level.

There is little prospect for significantly increasing DOT's overall funding. The Bipartisan Budget Act of 2015 (P.L. 114-74) was signed into law on November 2, 2015, increasing the overall FY2016 discretionary budget authority for nondefense accounts by $25 billion. That increase could be divided among 12 appropriations bills; the amount of the increase that will be made available for transportation, if any, is not yet known. And while the House and Senate are currently negotiating the differences between their versions of surface transportation authorization legislation (H.R. 22), the FY2016 funding levels provided in both the House and Senate bills are not significantly higher than the FY2015 levels.

# Understanding the DOT Appropriations Act

DOT's funding arrangements are unusual compared to those of most other federal agencies. Most of DOT's funding comes from trust funds rather than the general fund of the Treasury and most of DOT's funding is mandatory rather than discretionary. Also, most of DOT's funding is passed through to state and local governments through formula grants.

## Most DOT Funding Comes from Trust Funds

Most of DOT's annual funding comes from two large trust funds: the Highway Trust Fund and the Airport and Airway Trust Fund (see **Table 1**). The scale of DOT's annual funding coming from these funds is not entirely obvious in DOT budget tables; for while virtually all of the funding from the Highway Trust Fund is in the form of contract authority (which is a form of mandatory budget authority), most of the funding from the Airport and Airway Trust Fund is in the form of discretionary budget authority and so is mingled with the discretionary budget authority provided from the general fund of the Treasury.

**Table 1. DOT Budget Authority Sources, FY2015**

(in billions of dollars)

| Source | Amount | % of Total DOT Budget Authority |
|---|---|---|
| Airport and Airway Trust Fund | $15.0 | 21% |
| Highway Trust Fund | 50.8 | 71% |
| Subtotal, trust fund budget authority | 65.8 | 92% |
| Other | 5.8 | 8% |
| Total budget authority | $71.7 | 100% |

**Source:** Calculated by CRS using information from the Explanatory Statement accompanying H.R. 83 (113th Congress), Division K, and H.Rept. 114-129.

## Most DOT Funding Is Mandatory, Not Discretionary, Budget Authority

For most federal agencies, discretionary funding is close to, if not the same as, their total funding. But roughly three-fourths of DOT's funding is mandatory budget authority derived from trust funds (contract authority), rather than discretionary budget authority. **Table 2** shows the breakdown between the discretionary and mandatory funding in DOT's budget. See CRS Report R43420, *Surface Transportation Program Reauthorization Issues for Congress*, by Robert S. Kirk et al.

**Table 2. DOT FY2015 Budget Authority**

(in billions of dollars)

| Budget Authority (BA) | Amount |
|---|---|
| DOT net discretionary BA | $17.8 |
| DOT mandatory BA | $53.5 |
| DOT total budgetary resources | $71.3 |

**Source:** Comparative Statement of Budget Authority in H.Rept. 114-129.

**Note:** Budget authority figures in this table are net of rescissions, advance appropriations, offsetting receipts, and other adjustments.

## DOT Is Primarily a Grant-Making Agency

Approximately 80% of DOT's funding is distributed to states, local authorities, and Amtrak in the form of grants (see **Table 3**). Of DOT's largest sub-agencies, only the Federal Aviation Administration, which is responsible for the operation of the air traffic control system and employs roughly 83% of DOT's 56,252 employees, largely as air traffic controllers, has a budget whose primary expenditure is not making grants.

**Table 3. DOT Grant Accounts and Amounts, FY2015**

(in millions of dollars)

| Account | Amount |
|---|---|
| Office of the Secretary: National Infrastructure Improvement (TIGER) | $500 |
| Federal Aviation Administration: Grants-in-Aid to Airports | 3,333 |
| Federal Highway Administration: Federal-aid Highway Program | 40,569 |
| Federal Motor Carrier Safety Administration: Motor Carrier Safety Grants | 313 |
| Federal Railroad Administration: Grants to Amtrak and Rail Safety Grants | 1,400 |
| Federal Transit Administration: Formula Grants | 8,595 |
| Federal Transit Administration: Capital Investment Grants (New Starts and Small Starts) | 2,120 |
| Federal Transit Administration: WMATA Capital and Preventive Maintenance Grants | 150 |
| National Highway Traffic Safety Administration: Highway Traffic Safety Grants | 562 |
| Pipeline and Hazardous Materials Safety Administration: Emergency Preparedness Grants | 28 |
| Total Grant Accounts | 57,449 |
| Total DOT Funding | $71,790 |

**Source:** Accounts and amounts taken from Comparative Statement of Budget Authority, H.Rept. 114-129.

**Note:** Amounts shown in this table represent totals for grant-making accounts, except that where administrative expenses were broken out in the source table they have been subtracted from the account total.

## Reauthorization of Surface and Air Transportation Programs

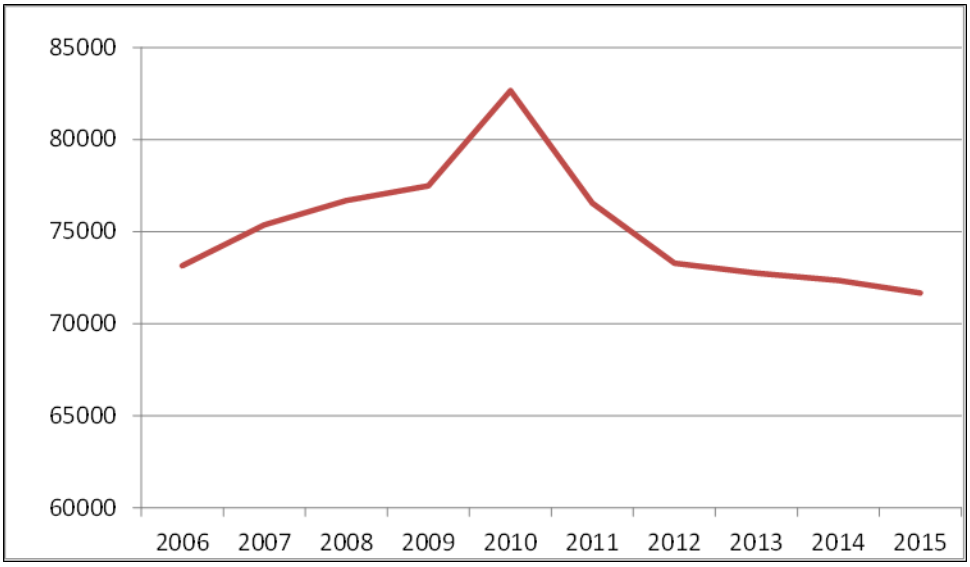
Since most of DOT funding comes from trust funds whose revenues typically come from taxes, the periodic reauthorizations of the taxes supporting these trust funds, and the apportionment of the budget authority from those trust funds to DOT programs, are a significant aspect of DOT funding. The current authorizations for both the federal aviation and surface transportation programs are scheduled to expire during FY2016. Reauthorization of these programs may affect both their structure and their funding levels. See CRS Report R43420, *Surface Transportation Program Reauthorization Issues for Congress*, by Robert S. Kirk et al. and CRS Report R43858, *Issues in the Reauthorization of the Federal Aviation Administration (FAA) in the 114th Congress*, by Bart Elias and Rachel Y. Tang for more information.

# DOT Funding Trend

DOT's nonemergency annual funding peaked in FY2010 at $82.7 billion (in constant 2015 dollars) and has been declining since (see **Figure 1**). Starting in FY2013, it has received less funding each year, in real terms, than it received in FY2006.

**Figure 1. DOT 10-Year Funding Trend (FY2006-FY2015)**

(in millions of constant 2015 dollars)




**Source:** Calculated by CRS based on figures in annual House THUD Appropriations committee reports. Current figures converted to constant dollars using the GDP (Chained) Price Index column in Table 10.1 (Gross Domestic Product and Deflators Used in the Historical Tables: 1940-2020) in the FY2016 Budget Request: Historical Tables (https://www.whitehouse.gov/omb/budget/Historicals), rebased to 2015.

**Notes:** Budget authority in this chart reflects an attempt to measure the amount of new funding available to DOT each year; it equals discretionary appropriations plus limitations on obligations. It does not include emergency appropriations (for example, to repair storm damage) or rescissions of budget authority, rescissions of contract authority, and offsetting collections (which reduce the amount of discretionary budget authority shown as going to DOT without actually reducing the amount of funding available to DOT).

# DOT FY2016 Appropriations

## Recent Events

On November 10, 2015, the House and Senate went to conference to resolve their differences on H.R. 22, legislation to reauthorize surface transportation programs, which would set funding levels for surface transportation programs for FY2016 and subsequent years.

Congress passed a revised budget agreement (P.L. 114-74) on October 30, 2015, which increased the amount of budget authority available for nondefense accounts for FY2016 by $24.6 billion. Depending on how this additional funding is divided among nondefense accounts, this may allow appropriators to increase funding for transportation programs.

**Table 4** presents a selected account-by-account summary of FY2016 appropriations for DOT, compared to FY2015.

**Table 4. Department of Transportation FY2015-FY2016 Detailed Budget Table**

(in millions of current dollars)

| Department of Transportation Selected Accounts | FY2015 Enacted | FY2016 Request | H.R. 2577 House | H.R. 2577 Senate-Reported | Enacted P.L. 114-113 |
|---|---|---|---|---|---|
| **Office of the Secretary (OST)** | | | | | |
| Payments to air carriers (Essential Air Service)[a] | 155 | 175 | 155 | 175 | 175 |
| National infrastructure investment (TIGER) | 500 | 1,250 | 100 | 500 | 500 |
| Safe transport of oil | — | 5 | — | — | — |
| Total, OST | 803 | 1,612 | 389 | 835 | 832 |
| **Federal Aviation Administration (FAA)** | | | | | |
| Operations | 9,741 | 9,915 | 9,845 | 9,898 | 9,910 |
| Facilities and equipment | 2,600 | 2,855 | 2,503 | 2,600 | 2,855 |
| Research, engineering, and development | 157 | 166 | 157 | 163 | 166 |
| Grants-in-aid for airports (Airport Improvement Program) (limitation on obligations) | 3,350 | 2,900 | 3,350 | 3,350 | 3,350 |
| Total, FAA | 15,847 | 15,836 | 15,855 | 16,011 | 16,281 |
| **Federal Highway Administration (FHWA)** | | | | | |
| Limitation on administrative expenses | 426 | 442 | 429 | 429 | 429 |
| Federal-aid highways (limitation on obligations) | 40,256 | 50,068 | 40,256 | 40,256 | 42,361 |
| Total, FHWA | 40,995 | 51,307 | 40,995 | 40,995 | 43,100 |
| **Federal Motor Carrier Safety Administration (FMCSA)** | | | | | |
| Motor carrier safety operations and programs | 271 | 329 | 259 | 259 | 267 |
| Motor carrier safety grants to states | 313 | 339 | 313 | 313 | 313 |
| Total, FMCSA | 584 | 669 | 572 | 572 | 580 |
| **National Highway Traffic Safety Administration (NHTSA)** | | | | | |
| Operations and research | 269 | 331 | 278 | 249 | 296 |
| Highway traffic safety grants to states (limitation on obligations) | 562 | 577 | 562 | 576 | 573 |
| Total, NHTSA | 830 | 908 | 840 | 825 | 869 |
| **Federal Railroad Administration (FRA)** | | | | | |
| Safety and operations | 187 | 204 | 190 | 199 | 199 |
| Research and development | 39 | 39 | 39 | 39 | 39 |
| Railroad Safety Grants | — | — | — | — | 50 |
| Rail Service Improvement Program | — | 2,325 | — | — | — |
| Current passenger rail service | — | 2,450 | — | — | — |

| Department of Transportation Selected Accounts | FY2015 Enacted | FY2016 Request | H.R. 2577 House | H.R. 2577 Senate-Reported | Enacted P.L. 114-113 |
|---|---|---|---|---|---|
| Amtrak operating grants | 250 | — | 289 | 289 | 289 |
| Amtrak capital and debt service grants | 1,140 | — | 859 | 1,102 | 1,102 |
| Total Amtrak grants | 1,390 | 2,450 | 1,148 | 1,390 | 1,390 |
| Total, FRA | 1,626 | 5,018 | 1,377 | 1,678 | 1,678 |
| **Federal Transit Administration (FTA)** | | | | | |
| Formula grants (M) | 8,595 | 13,800 | 8,595 | 8,595 | 9,348 |
| Capital investment grants (New Starts) | 2,120 | 3,250 | 1,921 | 1,585 | 2,177 |
| Washington Metropolitan Area Transit Authority | 150 | 150 | 100 | 150 | 150 |
| FTA Total | 10,887 | 18,399 | 10,726 | 10,463 | 11,757 |
| **Maritime Administration (MARAD)** | 341 | 407 | 361 | 373 | 399 |
| Assistance to small shipyards | 4 | — | — | 5 | 5 |
| **Pipeline and Hazardous Materials Safety Administration (PHMSA)** | | | | | |
| Subtotal | 220 | 256 | 227 | 218 | 223 |
| Offsetting user fees | -127 | -154 | -125 | -127 | -125 |
| Emergency preparedness grants (M) | 29 | 29 | 29 | 29 | 29 |
| PHMSA net total | 94 | 102 | 103 | 91 | 99 |
| **Office of Inspector General** | 86 | 87 | 86 | 87 | 87 |
| **Saint Lawrence Seaway Development Corporation** | 32 | 36 | 29 | 28 | 28 |
| **Surface Transportation Board (STB)** | | | | | |
| Salaries and expenses | 31 | 32 | 31 | 32 | 32 |
| Offsetting collections | -1 | -1 | -1 | -1 | -1 |
| STB net total | 30 | 31 | 30 | 31 | 31 |
| **DOT Totals** | | | | | |
| Appropriation (discretionary funding) | 18,184 | 24,016 | 17,180 | 17,816 | 18,696 |
| Limitations on obligations (M) | 53,485 | 69,666 | 53,460 | 53,467 | 56,355 |
| **Subtotal—new funding** | 71,284 | 89,744 | 70,549 | 71,251 | 75,051 |
| Rescissions of discretionary funding | -122 | — | — | -31 | -47 |
| Rescissions of contract authority | -260 | — | — | — | — |
| Offsetting collections | -1 | -7 | -1 | -1 | -1 |
| **Net new discretionary funding** | 17,801 | 24,008 | 17,179 | 17,784 | 18,648 |
| **Net new budget authority** | 71,286 | 93,674 | 70,639 | 71,251 | 75,003 |

**Sources:** Table prepared by CRS based on information in H.R. 2577, H.Rept. 114-129, S.Rept. 114-75, and the *Congressional Record*, December 17, 2015, H10451-H10462.

**Notes:** "M" stands for mandatory budget authority. Line items may not add up to the subtotals due to omission of some accounts. Subtotals and totals may differ from those in the source documents due to treatment of rescissions, offsetting collections, and other adjustments. The figures in this table reflect new budget authority

made available for the fiscal year. For budgetary calculation purposes, the source documents may subtract rescissions of prior year funding or contract authority, or offsetting collections, in calculating subtotals and totals.

a. The Essential Air Service (EAS) program also receives an additional amount in mandatory budget authority; see discussion below.

## Selected Issues

Roughly three-fourths of DOT's budget is mandatory budget authority (contract authority) derived from the Highway Trust Fund. The authorizations for that funding were scheduled to expire at the end of FY2014, but have been extended. The Highway Trust Fund was projected to fall below the level needed to make timely payments to grantees during FY2015, but Congress transferred $8 billion to the trust fund by means of spending offsets in July 2015 (P.L. 114-41) in order to maintain the fund's solvency.

Overall, the FY2016 budget request totals $93.7 billion in new budget resources for DOT.[1] The requested funding is $22 billion more than that enacted for FY2015. The Administration request reflected its surface transportation reauthorization proposal, which called for significant increases in funding for highways, transit, and intercity rail. Transportation authorization is outside the jurisdiction of the appropriations committees, but since most of DOT's appropriations come from the Highway Trust Fund, the status of the fund is a key concern.

### Highway Trust Fund Solvency

Virtually all federal highway funding, and most federal transit funding, comes from the Highway Trust Fund, whose revenues come largely from the federal motor fuels excise tax ("gas tax"). For several years, expenditures from the fund have exceeded revenues; for example, in FY2015, revenues are projected to be approximately $39 billion, while authorized outlays are projected to be approximately $52 billion.[2] Congress transferred more than $62 billion, mostly from the general fund of the Treasury, to the Highway Trust Fund during the period FY2008-FY2015 to keep the trust fund solvent.

One reason for the shortfall in the fund is that the federal gas tax has not been raised since 1993. The tax is a fixed amount assessed per gallon of fuel sold, not a percentage of the cost of the fuel sold: whether a gallon of gas costs $1 or $4, the highway trust fund receives 18.3 cents for each gallon of gasoline and 24.3 cents for each gallon of diesel. Meanwhile, the value of the gas tax has been diminished by inflation (which has reduced the purchasing power of the revenue raised by the tax) and increasing automobile fuel efficiency (which reduces growth in gas sales as more efficient vehicles are able to travel farther on a gallon of fuel). The Congressional Budget Office (CBO) has forecast that gasoline consumption will be relatively flat through 2024, as continued increases in the fuel efficiency of the U.S. passenger fleet are projected to offset increases in the number of miles driven.[3] Consequently, CBO expects highway trust fund revenues of $37 billion to $38 billion annually from FY2014 to FY2024, well short of the current $53 billion annual level of authorized expenditures from the fund.[4]

[1] This number, taken from H.Rept. 114-129, may differ slightly from the figure in DOT budget documents because of variations in the treatment of offsetting collections, mandatory funding, rescissions, and other budgetary considerations.

[2] Congressional Budget Office, "Projections of Highway Trust Fund Accounts—CBO's March 2015 Baseline," https://www.cbo.gov/sites/default/files/cbofiles/attachments/43884-2015-03-HighwayTrustFund.pdf.

[3] Ibid., p. 88.

[4] Ibid., Table 4-3.

## National Infrastructure Investment (TIGER Grants)

The Transportation Investments Generating Economic Recovery (TIGER) grant program originated in the American Recovery and Reinvestment Act (P.L. 111-5), where it was referred to as "national infrastructure investment" (as it has been in subsequent appropriations acts). It is a discretionary grant program intended to address two criticisms of the current structure of federal transportation funding:

- that virtually all of the funding is distributed to state and local governments, which select projects based on their individual priorities, making it difficult to fund projects that have national or regional impacts but whose costs fall largely on one or two states; and
- that federal transportation funding is divided according to mode of transportation, making it difficult for major projects in different modes to compete on the basis of comparative benefit.

The TIGER program provides grants to projects of national, regional, or metropolitan area significance in various modes on a competitive basis, with recipients selected by U.S. DOT.[5]

Although the program is, by description, intended to fund projects of national, regional, and metropolitan area significance, in practice its funding has gone more toward projects of regional and metropolitan area significance. In large part this is a function of congressional intent, as Congress has directed that the funds be distributed equitably across geographic areas, between rural and urban areas, and among transportation modes, and has set relatively low maximum ($15 million) and minimum ($1 million for rural projects) grant limits.

Congress has continued to support the TIGER program through annual DOT appropriations.[6] There have been seven rounds of TIGER grants (from ARRA funding and from FY2010-FY2015 annual appropriations). After the restructuring of DOT programs in the 2012 surface transportation reauthorization,[7] the TIGER program is virtually the only remaining discretionary grant program for surface transportation other than the Federal Transit Administration's Capital Investment Grant program (popularly referred to as New Starts), discussed below. It is heavily oversubscribed; for example, DOT announced that it received a total of $10.1 billion in applications for the $500 million available for FY2015 grants.[8]

The U.S. Government Accountability Office (GAO) has reported that, while DOT has selection criteria for the TIGER grant program, it has sometimes awarded grants to lower-ranked projects while bypassing higher-ranked projects without explaining why it did so, raising questions about the integrity of the selection process.[9] DOT has responded that its project rankings are based on transportation-related criteria (e.g., safety, economic competitiveness), but that it must sometimes select lower-ranking projects over higher-ranking ones to comply with other selection criteria

[5] For more information, see DOT's TIGER website: http://www.transportation.gov/tiger.

[6] Congress refers to the program as "National Infrastructure Investment" in appropriations acts.

[7] Moving Ahead for Programs in the 21st Century (MAP-21), P.L. 112-141, enacted July 6, 2012.

[8] U.S. Department of Transportation, "U.S. Transportation Secretary Foxx Announces $500 Million in TIGER Grants Awarded to 39 Projects," October 28, 2015, https://www.transportation.gov/briefing-room/secretary-foxx-announces-500-million-in-39-tiger-grants.

[9] U.S. Governmental Accountability Office, *Surface Transportation: Actions Needed to Improve Documentation of Key Decisions in the TIGER Discretionary Grant Program*, GAO-14-628R, May 28, 2014.

established by Congress, such as geographic balance and a balance between rural and urban awards.[10]

There has also been criticism that TIGER grants go disproportionately to urban areas compared to rural areas. However, for several years Congress has directed that at least 20% of TIGER funding should go to projects in rural areas. According to the 2010 Census, 19% of the U.S. population lives in rural areas.[11]

As **Table 5** illustrates, the TIGER grant appropriation process has followed a pattern for several years: the Administration requests as much as or more than Congress has previously provided; the House zeroes out the program or proposes a large cut; the Senate proposes an amount similar to the previously enacted figure; and the final enacted amount is similar to the previously enacted amount.

**Table 5. Recent TIGER Grant Appropriation Pattern**

(in millions of current dollars)

| | Budget Request | House | Senate | Enacted |
|---|---|---|---|---|
| FY2013 | $500 | $0 | $500 | $500 |
| FY2014 | 500 | 0 | 550 | 600 |
| FY2015 | 1,250 | 100 | 550 | 500 |
| FY2016 | 1,250 | 100 | 500 | 500 |

**Source:** Committee reports accompanying Departments of Transportation, Housing and Urban Development, and Related Agencies appropriations acts, various years.

**Notes:** Enacted figures do not reflect subsequent reductions due to sequester reductions or rescissions.

In addition to the reduced funding, the House-passed bill would reduce the federal matching share for TIGER grants from 80% to 50% (though it could go higher for projects in rural areas). The Senate-reported bill keeps the matching share at 80% (or more, in the case of rural areas), and directs that at least 30% of funding go to projects in rural areas.

## Essential Air Service (EAS)[12]

The EAS program seeks to preserve commercial air service to small communities by subsidizing service that would otherwise be unprofitable. The cost of the program in real terms has doubled since FY2008, in part because route reductions by airlines resulted in new communities being added to the program. Congress made changes to the program in 2012, including allowing no new entrants,[13] capping the per-passenger subsidy for a community at $1,000, limiting communities less than 210 miles from a hub airport to a maximum average subsidy per passenger of $200, and allowing smaller, less expensive planes to be used for communities with few daily passengers.[14]

[10] Ibid., p. 6.

[11] U.S. Census Bureau, Frequently Asked Questions: "What percentage of the U.S. population is urban or rural?," https://ask.census.gov/faq.php?id=5000&faqId=5971.

[12] For more information about EAS, see CRS Report R44176, *Essential Air Service (EAS)*, by Rachel Y. Tang.

[13] This limitation does not apply to Alaska or Hawaii. Forty-three (27%) of the EAS communities are in Alaska; none are in Hawaii.

[14] The program had previously required airlines to use 15-passenger aircraft at a minimum.

**Table 6. Essential Air Service Program: Number of Communities and Annual Budget, FY2008-FY2015**

| | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 |
|---|---|---|---|---|---|---|---|---|
| # of EAS communities | 146 | 153 | 159 | 155 | 163 | 160 | NA | NA |
| Budget (millions of current $) | $109 | $138 | $200 | $200 | $216 | $255 | $268 | $263 |
| Budget in constant 2015 dollars (millions) | 121 | 151 | 217 | 213 | 226 | 262 | 272 | 263 |

**Source:** Prepared by CRS based on information from Office of the Secretary, U.S. Department of Transportation, FY2015 Budget Estimate, p. EAS/PAC -2; FY2014 and FY2015 budget data from H.Rept. 113-464, p. 12, and H.Rept. 114-129.

**Note:** Budget figures deflated using the "Total Non-Defense Outlays" column from Table 10.1—Gross Domestic Product and Deflators Used in the Historical Tables 1940-2020, Budget of the United States 2016; numbers rebased to 2015 by CRS.

Supporters of the EAS program contend that preserving airline service to small communities was a commitment Congress made when it deregulated airline service in 1978, anticipating that airlines would reduce or eliminate service to many communities that were too small to make such service economically viable. Supporters also contend that subsidizing air service to smaller communities promotes economic development in rural areas. Critics of the program note that the subsidy cost per passenger is relatively high,[15] that many of the airports in the program have very few passengers,[16] and that some of the airports receiving EAS subsidies are little more than an hour's drive from major airports.

**Table 7. Essential Air Service Funding, FY2015-FY2016**

(in thousands of dollars)

| | FY2015 Enacted | FY2016 Request | H.R. 2577 House | H.R. 2577 Senate-Reported | Enacted P.L. 114-113 |
|---|---|---|---|---|---|
| Appropriation | $155,000 | $175,000 | $155,000 | 175,000 | 175,000 |
| Mandatory supplement | 108,199 | 108,379 | 108,379 | 108,400 | 108,400 |
| Total | $263,199 | $283,379 | $263,379 | 283,400 | 283,400 |

**Source:** H.Rept. 114-129 and *Congressional Record*, December 17, 2015, H10451-H10462.

In addition to the annual discretionary appropriation for the program, there is a mandatory annual authorization, $108.4 million in FY2016,[17] financed by overflight fees collected from commercial airlines by FAA. These overflight fees apply to international flights that fly over, but do not land

[15] To remain eligible for the program, a community's subsidy per passenger must not exceed $1,000. The per-passenger subsidy varies among communities from $6 to over $1,000 in rare cases. Information on EAS communities' subsidy per passenger is on pp. 21-23 of S.Rept. 113-182.

[16] In 2012, 27 EAS communities averaged fewer than 10 passengers per day. In 2012, Congress disqualified airports averaging fewer than 10 passengers per day unless they are more than 175 miles from the nearest hub airport: P.L. 112-95, Title IV, Subtitle B.

[17] The amount made available to the EAS program from the fees may exceed $100 million, if the fees provide sufficient revenue.

in, the United States. The fees are to be reasonably related to the costs of providing air traffic services to such flights.

As **Table 7** shows, the Administration requested $175 million for the EAS program in FY2016, in addition to $108 million in mandatory funding for a total of $283 million. The House bill would provide $155 million in discretionary funding and $263 million overall, the same amounts as in FY2015. The Senate-reported bill would provide a total of $283 million, the requested amount.

## Intercity Rail Safety

On May 12, 2015, an Amtrak passenger train derailed in Philadelphia; 8 passengers died and over 200 were injured. The incident is still being investigated, but preliminary findings indicate that the derailment resulted from the train traveling at nearly twice the speed prescribed for that section of track. National Transportation Safety Board officials have stated that the incident could have been prevented if positive train control technology had been operating on that section of track.[18]

In 2008, Congress directed railroads to install positive train control (PTC) on certain segments of the national rail network (including the segment where this incident occurred) by the end of 2015.[19] Amtrak had installed the necessary equipment but had not yet put it into operation. It is unclear whether greater federal funding for Amtrak would have led positive train control to be implemented earlier on this section of track. Freight railroads have reportedly spent billions of dollars thus far to meet this requirement, but most of the track required to have PTC installed will not be in compliance by the end of 2015; Congress extended the deadline to the end of 2018—with an option for individual railroads to extend to 2020 with Federal Railroad Administration (FRA) approval—in October 2015.[20]

Congress provided $50 million in FY2010 for grants to railroads to help cover the expenses of installing PTC. The Administration's FY2016 budget request included $875 million for the cost of positive train control implementation on commuter railroad routes; neither the House-passed nor Senate-reported bill included funding specifically for this purpose, though the Senate-reported bill recommends $50 million for rail safety grant programs.

H.Rept. 114-129 directs the Administrator of FRA to require all states to prepare railroad-highway grade crossing safety action plans identifying specific solutions to improve safety at high-risk crossings. Currently only the 10 states that had the highest number of grade crossing collisions during the period 2006-2008 are required to have such plans. S.Rept. 114-75 notes that the committee's recommendations included an increase of $1.9 million to improve passenger rail safety (by hiring staff to develop and implement passenger rail risk reduction system safety programs, and additional inspectors) and $10 million for grants to states for highway-rail grade crossing safety, plus an additional $1 million to reduce grade crossing incidents and improve pedestrian safety.

## Intercity Passenger Rail Development

Reflecting the Administration's surface transportation reauthorization proposal, the budget proposed a total of $4.8 billion for a new National High Performance Rail System program within

[18] Testimony of Christopher Hart, Chairman of the National Transportation Safety Board, before the House Transportation and Infrastructure Committee, June 2, 2015, http://transportation.house.gov/uploadedfiles/2015-06-02-hart.pdf.

[19] See CRS Report R42637, *Positive Train Control (PTC): Overview and Policy Issues*, by John Frittelli.

[20] Positive Train Control Enforcement and Implementation Act of 2015, §1302 of P.L. 114-73.

FRA, consisting of two grant programs: $2.45 billion for a Current Passenger Rail Service grant program (which would primarily fund maintenance and improvement of existing intercity passenger rail service, i.e., Amtrak) and $2.325 billion for a Rail Service Improvement grant program (which would fund new intercity passenger rail projects as well as some improvements to freight rail). The funding would come from a new transportation trust fund rather than discretionary funding. The Administration made a similar proposal in FY2014 and FY2015.

Funding provided in H.R. 2577 follows the existing FRA structure, taking the form of grants to Amtrak. The Senate-reported bill does recommend rescinding $17 million in unobligated balances and making that funding available for improvements to the Northeast Corridor.

The 111th Congress (2009-2010) provided $10.5 billion for DOT's high-speed and intercity passenger rail grant program, beginning with $8 billion in the American Recovery and Reinvestment Act of 2009. Since then, Congress has provided no additional funding and in FY2011 rescinded $400 million of the unobligated portion of the $10.5 billion already appropriated.

This program has provided funding mainly to develop intercity passenger rail service with top speeds of 90 or 110 miles per hour. One state, California, is actively pursuing development of a high-speed rail line that would provide dedicated tracks for passenger trains traveling at speeds greater than 150 miles per hour. California has received $3.6 billion in federal funding for this project, but the total cost of constructing the line is estimated at more than $70 billion, and the prospects for financing the full project are uncertain.

## Amtrak

The Administration proposal for a new Current Passenger Rail Service account would almost double the amount Congress provided Amtrak in FY2015. Amtrak submits a grant request to Congress each year, separate from the Administration's budget request. Amtrak requested $2.0 billion for FY2016,[21] $450 million less than the Administration's request for Amtrak. Amtrak's request used different categories than the Administration budget, making a comparison difficult.

The House-passed bill would provide $1.148 billion for Amtrak for FY2016, 17% below the FY2015 amount. The Senate-reported bill recommended $1.39 billion for Amtrak, the same amount as in FY2015.

**Table 8** shows the amount of funding provided for Amtrak grants in FY2015 and the amounts requested and proposed for FY2016.

[21] Amtrak, *FY2016 Grant and Legislative Request*, February 17, 2015, Table 1, available at http://www.amtrak.com/ccurl/785/933/Amtrak-FY16-Grant-Legislative-Final.pdf.

**Table 8. Amtrak Budget and Request, FY2015-FY2016**

(in millions of dollars)

| Grant | FY2015 Enacted | FY2016 Administration Request | FY2016 Amtrak Independent Budget Request | H.R. 2577 House | H.R. 2577 Senate-Reported | Enacted P.L. 114-113 |
|---|---|---|---|---|---|---|
| Operating grants | $250 | — | $732 | $289 | 289 | 289 |
| Capital and debt service grants | 1,140 | — | 712 | 859 | 1,101 | 1,102 |
| Current Passenger Rail Service | — | $2,425 | — | — | | — |
| Northeast Corridor | — | (550) | — | — | 17 | — |
| State corridors | — | (225) | — | — | | — |
| Long-distance routes | — | (850) | — | — | | — |
| National assets | — | (475) | — | — | | — |
| Stations ADA compliance | — | (350) | — | — | | — |
| PRIIA Section 212 Grant Program | — | — | 556 | — | | — |
| Total | $1,390 | $2,425 | $2,000 | $1,148 | $1,390 | $1,390 |

**Source:** H.Rept. 114-129, S.Rept. 114-75; Federal Railroad Administration *FY2016 Budget Estimate*, Amtrak *FY2016 Grant and Legislative Request,* and *Congressional Record*, December 17, 2015, H10451-H10462.

**Notes:** ADA refers to compliance with the Americans with Disabilities Act. PRIIA is the Passenger Rail Investment and Improvement Act of 2008, Division B of P.L. 110-432. Numbers in parentheses are breakdowns of the total number. Amtrak's independent budget request breaks down its overall request differently; the breakdown is altered here for better comparison with appropriations bills. The $17 million for Northeast Corridor grants in the Senate-reported H.R. 2577 is repurposed from previous years' appropriated funding; it is not added to Amtrak's total funding to reflect treatment of the funding in the Senate committee report budget table, but the grants would be made to Amtrak for work on the Northeast Corridor.

Amtrak's operating grant request totals $732 million, reflecting projected operating losses of its state-supported routes and long-distance routes. It projects a $367-million operating profit on the Northeast Corridor (NEC), but plans to apply that toward capital investment on the corridor, the capital needs of which are far greater than can be covered by its operating profits. Because Amtrak's budget request applies that operating revenue to its capital needs and also requests $556 million for matching grants to states for contributions to NEC infrastructure per PRIIA Section 212, which would offset a portion of Amtrak's capital needs,[22] comparing Amtrak's budget

[22] Section 212 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) requires the Northeast Corridor Infrastructure and Operations Advisory Commission (made up of Amtrak, U.S. DOT, states along the NEC, and other NEC stakeholders) to develop and implement a method to allocate shared costs for NEC infrastructure and services. The cost-sharing agreement has been approved and will go into effect in FY2016. The commission has recommended that Congress establish a matching grant fund program for states to invest in the NEC; see testimony of a commission representative before the Senate Commerce Committee Subcommittee on Surface Transportation and Merchant Marine Infrastructure Safety and Security in May 2015, http://www.nec-commission.com/wp-content/uploads/2012/11/2015-04-30-JPR-Testimony-Senate-Commerce-2015-05-04_Final.pdf.

request to the funding proposed in the House bill can be confusing; a more direct comparison is shown in **Table 9**.

**Table 9. Amtrak's FY2016 Budget**

(in millions of dollars)

| | Amtrak Estimate | H.R. 2577 House | H.R. 2577 Senate-Reported | Enacted P.L. 114-113 |
|---|---|---|---|---|
| Operating revenues | $3,354 | | | |
| Operating expenses | (3,642) | | | |
| Net gain (loss) | (288.5) | | | |
| Operating grant | | 288.5 | 288.5 | 288.5 |
| Debt service | (169) | | | |
| Capital needs | (1,804) | | | |
| State and commuter contributions | 261 | | | |
| Net capital needs | (1,543) | | | |
| Net capital and debt service needs | (1,703) | | | |
| Capital and debt service grant | | 859 | 1,101.5 | 1,101.5 |
| Total request | 2,000 | | | |
| Total funding | $3,354 | $1,147.5 | $1,390 | $1,390 |

**Source:** Amtrak FY2016 Grant and Legislative Request; H.Rept. 114-129 and S.Rept. 114-75, and *Congressional Record*, December 17, 2015, H10451-H10462.

**Notes:** Amtrak debt service amount includes federal holdback. Numbers in parentheses are expenses.

## Federal Transit Administration New Starts and Small Starts (Capital Investment Grants)

The majority of FTA's almost $11-billion funding is funneled to state and local transit agencies through several formula programs. The largest transit discretionary grant program is the Capital Investment Grants program (commonly referred to as the New Starts and Small Starts program). It funds new fixed-guideway transit lines[23] and extensions to existing lines. Before 2012, the program had two components, New Starts and Small Starts, based on project cost. The New Starts component funds capital projects with total costs over $250 million that are seeking more than $75 million in federal funding, and the Small Starts component funds capital projects with total costs under $250 million that are seeking less than $75 million in federal funding.

In the transit program reauthorization enacted in 2012, Congress added a third component, Core Capacity. This component funds expansions to existing fixed-guideway systems that are at or near capacity.

The Capital Investment Grants program provides funding to large projects over a period of years. Much of the funding for this program each year is committed to existing New Starts projects with multi-year grant funding agreements. FTA reports that its existing grant agreements will require $1.25 billion in New Starts funding in FY2016.

[23] Fixed-guideway refers to systems in which the vehicle travels on a fixed course; for example, subways and light rail.

For FY2016, the Administration requested $3.25 billion for the program, $1.13 billion (53%) more than the $2.12 billion provided in FY2015. The House-passed bill would provide $1.92 billion, roughly $200 million (9%) less than the FY2015 level. According to the committee, that amount would fully fund all projects with existing grant agreements and would provide $250 million for projects expected to sign a full funding grant agreement during FY2016, plus $353 million for nine Small Starts projects included in the Administration request. The Senate-reported bill recommends $1.585 billion, 25% ($535 million) below the FY2015 level.

The federal share for New Starts projects, by statute, can be up to 80%. Since FY2002, DOT appropriations have included a provision directing FTA not to sign any full funding grant agreements that provide a federal share of more than 60%. The House-passed bill lowers the maximum federal share to 50%. The Senate-reported bill does not lower the share, but directs FTA to give priority to projects requesting a lower federal share.

Critics of lowering the federal share provided for New Starts projects note that the federal share for highway projects is typically 80% and in some cases is higher. They contend that, by providing a lower share of federal funding (and thus requiring a higher share of local funding), this provision makes highway projects relatively more attractive for communities considering how to address transportation problems. Advocates of this provision note that the demand for New Starts funding greatly exceeds the amount available, so requiring a higher local match allows FTA to support more projects with the available funding. They also assert that requiring a higher local match likely encourages communities to estimate the costs and benefits of proposed transit projects more carefully, reducing the risk of subsequent cost overruns.

## Grant to the Washington Metropolitan Area Transit Authority

The Passenger Rail Investment and Improvement Act of 2008 authorized $1.5 billion over 10 years in grants to the Washington Metropolitan Area Transit Authority (WMATA) for preventive maintenance and capital grants, to be matched by funding from WMATA's three jurisdictions: the District of Columbia and the states of Maryland and Virginia. Under this agreement, Congress has provided $150 million in each of the past six years to WMATA.

WMATA faces a number of difficulties. It is dealing with a backlog of maintenance needs due to inadequate maintenance investment years ago; it has experienced several fatal incidents, most recently in January of this year, that have raised questions about the safety culture of the agency; and an investigation that found numerous instances of mismanagement of federal funding has led FTA to restrict WMATA's use of federal funds. An FTA audit of WMATA's safety practices in 2015 produced many recommendations for change, and in October 2015 FTA assumed oversight of WMATA's safety compliance practices from the Tri-State Oversight Commission, the agency created by the governments of the District of Columbia, Maryland, and Virginia to oversee WMATA safety performance. Richard Sarles, WMATA's general manager since January 2011, retired in January 2015 (he had announced his retirement date in September 2014), and a new manager was not appointed until November 2015 after other candidates chosen by the Board backed out.

For FY2016, the House-passed H.R. 2577 would provide $100 million, $50 million less than in previous years. The House Committee on Appropriations had initially recommended $75 million, and in the committee report accompanying H.R. 2577, the committee noted that if it sees evidence that WMATA is addressing its safety and financial issues, the committee would reevaluate its funding recommendation. During committee markup, an amendment was approved adding $25 million to the WMATA funding. The Senate Committee on Appropriations recommended $150 million, the same amount as in previous years.

## Commercial Vehicle Safety

### *Truck Size*

Both the House-passed and Senate-reported bills would increase the length of trucks permitted on the Interstate System and National Network by amending 49 U.S.C. Section 31111(b)(1)(A) to increase the maximum length of twin trailers from 28 feet to 33 feet.

DOT has published technical reports as part of a comprehensive truck size and weight limits study mandated by Congress. In the reports the department found that this particular configuration—a tractor unit towing twin 33-foot trailers—caused increased damage to road surface and increased costs for bridge maintenance, while reducing enforcement costs and truck vehicle miles traveled (since fewer trucks would be needed for the same amount of cargo). Its safety impacts could not be estimated because such configurations are not currently in use (other than in limited use on one route in one state).[24]

Some trucking industry interests support the increased length on the grounds of improved productivity; it would enable a driver to haul a larger load.

### *Commercial Driver Hours of Service and the 34-Hour Restart Requirement*

Both the House-passed and the Senate-reported bills continue a provision from the FY2015 THUD act that suspends portions of commercial driver hours-of-service rules pending a study of their costs and benefits. These rules were imposed by the Federal Motor Carrier Safety Administration in June 2013. Drivers are required to take at least 34 hours off duty, covering two consecutive 1 a.m.-5 a.m. periods, after working for 60 hours in a seven-day period (or 70 hours in an eight-day period). And drivers are only allowed to take this 34-hour "restart" once in a 168-hour (seven-day) span. If drivers work for less than 60 hours in a week, they do not have to take the 34-hour restart; for example, if a driver worked eight hours every day, for a total of 56 hours in a seven-day period, that driver could continue to work every day without taking a 34-hour rest period.

The purpose of the 2013 change in the hours-of-service rules was to promote highway safety by reducing the risk of driver fatigue. Under the previous rules, drivers had to take a 34-hour restart period after working for 60 hours in a seven-day period (or 70 hours in an eight-day period). But drivers could start this rest period at any time, and could take more than one such rest period per week. Thus a driver was able to work the maximum permitted time per day (14 hours) and take the 34-hour restart after five days, and then, after a rest period of as little as one night and two daytime periods, work 14 hours a day for another five consecutive days. FMCSA asserted that this schedule allowed a driver to work up to 82 hours over a seven-day period, which it judged to be insufficient to prevent the driver being fatigued while driving.

By limiting the use of the 34-hour restart to once in a seven-day (168-hour) period, FMCSA sought to limit drivers to a maximum of 70 hours of work in any seven-day span. And by requiring that the 34-hour restart period cover two 1 a.m.-5 a.m. periods, the current rule allows drivers to get more sleep during the 1 a.m.-5 a.m. period, when studies indicate that sleep is most restorative (compared to sleeping during other times of the day).

[24] U.S. Department of Transportation, Federal Highway Administration, Comprehensive Truck Size and Weight Limits Study: Volume 1: Technical Reports Summary, June 2015, http://ops.fhwa.dot.gov/freight/sw/map21tswstudy/technical_rpts/vol1technicalsummary.pdf.

The provision in Section 132 of the House bill prohibits enforcement of the new requirement, returning the requirement to what it was prior to June 2013, unless the study required by Section 133 of Division K of P.L. 113-235 (the FY2015 THUD act) finds that commercial drivers operating under the new restart provisions showed "statistically significant improvement in all outcomes related to safety, operator fatigue, driver health and longevity, and work schedules." This is slightly different than the original standard in P.L. 113-235, which looked for whether the study showed a "greater net benefit for the operational, safety, health and fatigue impacts of the restart provisions." The provision in the Senate-reported bill (§134) is similar to this original standard, looking for "statistically significant net safety benefits." FMCSA published a cost-benefit analysis in the final rule that implemented the change, which found that the change was cost-beneficial, but critics of the change said that the impacts were greater than FMCSA had estimated.

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