Congressional Research Service
Informing the legislative debate since 1914

Department of Transportation (DOT): FY2017 Appropriations

(name redacted)
Analyst in Transportation Policy

May 16, 2016

Congressional Research Service
7-....
www.crs.gov
R44499

CRS REPORT
Prepared for Members and
Committees of Congress

Summary

In February 2016, the Obama Administration proposed a $96.9 billion budget for the Department of Transportation (DOT) for FY2017. That is approximately $22 billion more than was provided for FY2016. The budget request reflected the Administration's call for significant increases in funding for highway, transit, and rail programs.

On May 12, 2016 the full Senate began its consideration of FY2017 appropriations for HUD as a part of a substitute amendment to H.R. 2577 that incorporates both the committee-passed version of the THUD bill (S. 2844) and the committee-reported version of the Military Construction, Veterans Affairs, and Related Agencies bill.

The DOT appropriations bill funds federal programs covering aviation, highways and highway safety, public transit, intercity rail, maritime safety, pipelines, and related activities. Federal highway, transit, and rail programs were reauthorized in the fall of 2015, and their future funding authorizations were somewhat increased. There is general agreement that more funding is needed for transportation infrastructure, but Congress has not been able to agree on a source that could provide the additional funding. The federal excise tax on motor fuel, which is the primary funding source for federal highway and transit programs, has not been increased in over 20 years, and does not raise enough revenue to support even the current level of spending. To address this shortfall, Congress periodically transfers money from the general fund to keep the programs going.

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 Senate Committee on Appropriations has reported out S. 2844, which would provide FY2017 appropriations for THUD. The committee recommended $76.9 billion in new budget authority for DOT, $1.8 billion more than the comparable figure in FY2016 but roughly $20 billion less than the Administration request. The increase in spending over FY2016 is not clear in budget tables due to a proposed rescission of $2.2 billion of contract authority, which makes the net FY2017 amount $344 million less than the comparable FY2016 appropriation.

The major changes from FY2016 levels in the Senate-reported bill are $905 million more for the federal highway program, $575 million more for the federal public transportation program, and $85 million for new federal grant programs for intercity passenger rail. The Senate-reported bill also includes a provision that would amend a provision included in the FY2016 DOT appropriations act suspending certain hour-of-service-related safety restrictions on commercial drivers pending the results of a study of their impact. Commercial drivers are generally limited to working 60 hours in a seven-day period, but have the option of starting a new seven-day period after a break of 34 hours (known as the 34-hour restart provision); a federal regulation issued in 2013 restricted use of the restart mechanism. The provision in the FY2016 act suspended enforcement of the 2013 restrictions. The provision in the current bill would also limit the total amount of time a commercial driver could work in any seven-day period to 73 hours; in the absence of the 2013 restrictions, a commercial driver can work up to 82 hours in a seven-day period.

Contents

Figures

Tables

Contacts

Introduction

The Obama Administration requested $94.5 billion for the Department of Transportation (DOT) for FY2017, $19.5 billion (26%) more than DOT received in FY2016. The Administration proposal included significant increases in funding for highway, transit, and intercity passenger rail programs. Around 75% of DOT's funding is mandatory budgetary authority drawn from trust funds; the Administration's request would have drawn a larger portion (87%) from mandatory budget authority, reducing the amount of discretionary budget authority in DOT's budget from $18.6 billion in 2016 to $12.0 billion for FY2017.

The Senate Committee on Appropriations recommended a total of $76.9 billion in new budget authority for DOT for FY2017 ($74.7 billion after scorekeeping adjustments); this is $1.8 billion (2.5%) above the comparable FY2016 amount. The committee rejected the request to reclassify some DOT expenditures as "mandatory."

On May 12, 2016, the full Senate began consideration of FY2017 appropriations for Transportation, HUD, and Related Agencies. By custom, appropriations bills originate in the House of Representatives. Because House action on the FY2017 THUD bill had not yet occurred, the Senate substituted the text of the Senate-reported FY2017 THUD bill (S. 2844) for the text of H.R. 2577, which originally contained the text of the Senate-reported FY2016 THUD bill. The Senate Appropriations Committee substitute amendment (S.Amdt. 3896) to the bill also includes as Division B the text of the Senate Appropriations Committee-reported FY2017 Military Construction, Veterans Affairs, and Related Agencies bill.

Understanding the DOT Appropriations Act

DOT's funding arrangements are unusual compared to those of most other federal agencies.

Two large trust funds, the Highway Trust Fund and the Airport and Airway Trust Fund, provide 91% of DOT's budget authority (see **Table 1**). The scale of the funding coming from these funds is not entirely obvious in DOT budget tables, because most of the funding from the Airport and Airway Trust Fund is in the form of discretionary budget authority and so is combined with the discretionary budget authority provided from the general fund.

Table 1. DOT Budget Authority Sources, FY2016

(in billions of dollars)

Source	Amount	% of Total DOT Budget Authority
Airport and Airway Trust Fund	$14.3	19%
Highway Trust Fund (including Mass Transit Account)	53.7	72%
Subtotal, budget authority derived from trust funds	**68.0**	**91%**
Other	7.0	9%
Total budget authority	$75.0	100%

Source: Calculated by CRS using information from Title I of Division L of P.L. 114-113, the Consolidated Appropriations Act, 2016.

Also, for most federal agencies discretionary funding is close or identical to total funding. But roughly three-fourths of DOT's funding is mandatory budget authority derived from trust funds. Only one-fourth of DOT's budget authority is truly discretionary authority.[1] **Table 2** shows the breakdown between the discretionary and mandatory funding in DOT's budget.

Table 2. DOT FY2016 Budget Authority

(in billions of dollars)

Budget Authority (BA)	Amount	Percent of Total
DOT net discretionary BA	$18.6	25%
DOT mandatory BA	56.4	75%
DOT total budgetary resources	$75.0	100%

Source: Comparative Statement of Budget Authority in S.Rept. 114-243.

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

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, many as air traffic controllers, has a budget whose primary expenditure is not making grants.

[1] DOT receives a form of mandatory budget authority known as "contract authority," the level of which is set in authorization acts and the funding for which is drawn from trust funds; contract authority spending is controlled in appropriations acts by "limitations on obligation." Discretionary budget authority is provided in appropriations acts and is typically drawn from the General Fund of the Treasury. For more details, see CRS Report R43420, *Surface Transportation Program Reauthorization Issues for Congress*, by (name redacted) et al.

Table 3. DOT Grant Accounts and Amounts, FY2016

(in millions of dollars)

Account	Amount
Office of the Secretary: National Infrastructure Improvement (TIGER)	$500
Federal Aviation Administration: Grants-in-Aid to Airports	3,350
Federal Highway Administration: Federal-aid Highway Program	42,671
Federal Motor Carrier Safety Administration: Motor Carrier Safety Grants	313
National Highway Traffic Safety Administration: Highway Traffic Safety Grants	547
Federal Railroad Administration: Grants to Amtrak & Rail Safety Grants	1,440
Federal Transit Administration: Formula Grants	9,348
Federal Transit Administration: Capital Investment Grants (New Starts & Small Starts)	2,177
Federal Transit Administration: WMATA Capital & Preventive Maintenance Grants	150
Maritime Administration: Assistance to Small Shipyards	5
Pipeline and Hazardous Materials Safety Administration: Emergency Preparedness Grants	28
Total Grant Accounts	60,529
Total DOT Funding	$75,003

Source: Accounts and amounts taken from Comparative Statement of Budget Authority, S.Rept. 114-243.

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

Reauthorization of Air Transportation Programs

Since most 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 authorization for the federal aviation programs is scheduled to expire during FY2016. Reauthorization of this program may affect both its structure and funding level.[2]

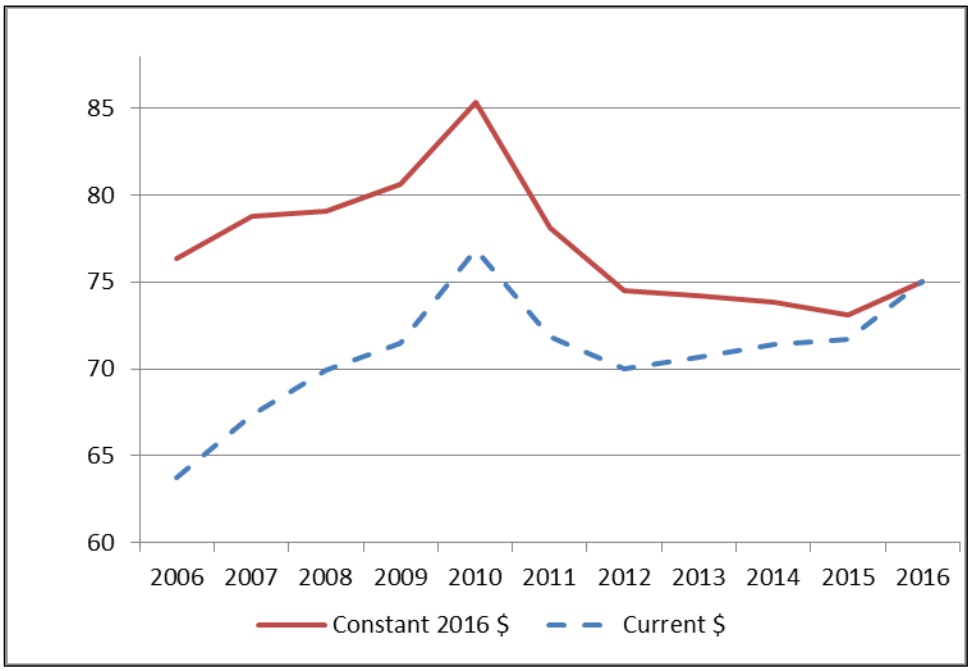
DOT Funding Trend

In current (nominal) dollars, DOT's nonemergency annual funding has risen from a recent low of $70 billion in FY2012 to $75 billion in FY2016. However, adjusting that funding for inflation tells a somewhat different story. DOT's inflation-adjusted funding peaked in FY2010 at $85.4 billion (in constant 2016 dollars) and declined from that point until FY2015, before rising in FY2016 (see **Figure 1**). Since FY2012, DOT's funding has been lower, after adjustment for inflation, than in any year during the FY2006-FY2011 period.

[2] See CRS Report R43858, *Issues in the Reauthorization of the Federal Aviation Administration (FAA)*, by (name redacted) and (name redacted), for more information.

Figure 1. DOT Funding Trend (FY2006-FY2016)

(in billions of dollars)



Source: Calculated by CRS based on figures in annual House THUD Appropriations committee reports. Current dollars are 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: 1940-2021) in the FY2017 Budget Request: Historical Tables (https://www.whitehouse.gov/omb/budget/Historicals).

Notes: Funding as shown in this chart 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 FY2017 Appropriations

Table 4 presents a selected account-by-account summary of FY2017 appropriations for DOT, compared to FY2016.

Table 4. Department of Transportation FY2016-FY2017 Detailed Budget Table

(in millions of current dollars)

Department of Transportation Selected Accounts	FY2016 Enacted	FY2017 Request	FY2017 House	FY2017 Senate-Reported S. 2844	FY2017 Enacted
Office of the Secretary (OST)					
Payments to air carriers (Essential Air Service)[a]	$175	$150		$150	
National infrastructure investments (TIGER)	500	1,250		525	
Total, OST	832	1,604		854	
Federal Aviation Administration (FAA)					
Operations	9,910	9,994		10,048	
Facilities & equipment	2,855	2,838		2,838	
Research, engineering, & development	166	168		176	
Grants-in-aid for airports (Airport Improvement Program) (limitation on obligations)	3,350	2,900		3,350	
Total, FAA	16,281	15,900		16,412	
Federal Highway Administration (FHWA)					
Total, FHWA (Federal-aid highways: limitation on obligations + exempt contract authority)	43,100	51,505		44,005	
Federal Motor Carrier Safety Administration (FMCSA)					
Motor carrier safety operations and programs	267	277		277	
Motor carrier safety grants to states	313	367		367	
Total, FMCSA	580	794		644	
National Highway Traffic Safety Administration (NHTSA)					
Operations and research	296	396		306	
Highway traffic safety grants to states (limitation on obligations)	573	585		585	
Total, NHTSA	869	1,181		891	
Federal Railroad Administration (FRA)					
Safety and operations	199	213		209	
Research and development	39	53		40	
Railroad safety grants	50	—		—	
Amtrak					
Amtrak operating grants	250	—		—	
Amtrak capital and debt service grants	1,140	—		—	
Current passenger rail service	—	2,300		—	
Northeast Corridor Grants	—	—		345	
National Network	—	—		1,075	

Department of Transportation Selected Accounts	FY2016 Enacted	FY2017 Request	FY2017 House	FY2017 Senate-Reported S. 2844	FY2017 Enacted
Total Amtrak grants	1,390	2,300		1,420	
Intercity Passenger Rail					
Rail Service Improvement Program	—	3,700		—	
Consolidated Rail infrastructure and safety improvements	—	—		50	
Federal-state partnership for State of Good Repair	—	—		20	
Restoration and enhancement grants	—	—		15	
Total, FRA	1,678	6,267		1,754	
Federal Transit Administration (FTA)					
Formula grants (M)	9,348	9,734		9,734	
Capital investment grants (New Starts)	2,177	3,500		2,338	
Washington Metropolitan Area Transit Authority	150	150		150	
Total, FTA	11,783	19,769		12,332	
Maritime Administration (MARAD)					
Assistance to small shipyards	5	—		10	
Total, MARAD	399	428		485	
Pipeline and Hazardous Materials Safety Administration (PHMSA)					
Subtotal	223	267		231	
Offsetting user fees	-125	-155		-130	
Emergency preparedness grants (M)	29	28		28	
Total, PHMSA	99	111		101	
Office of Inspector General	87	90		94	
Saint Lawrence Seaway Development Corporation	28	36		36	
DOT Totals					
Appropriation (discretionary funding)	18,696	14,436		19,144	
Limitations on obligations (M)	56,355	82,510		57,725	
Subtotal—new funding	75,051	96,946		76,869	
Rescissions of discretionary funding	-47	-5		—	
Rescissions of contract authority	—	-2,436		-2,211	
Net new discretionary funding	18,648	24,008		16,933	
Net new budget authority	$75,003[b]	$94,505		$74,659	

Sources: Table prepared by CRS based on information in S. 2844 and S.Rept. 114-243.

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 receives an additional amount in mandatory budget authority; see discussion below.

b. FY2016 totals include $31 million for the Surface Transportation Board, which was made an independent agency during FY2016 and whose funding will henceforth be provided outside the DOT budget.

Selected Issues

Overall, the Administration's FY2017 budget request totals $96.9 billion in new budget resources for DOT.[3] The requested funding is $21.9 billion more than that enacted for FY2016. The Administration request called for significant increases over the authorized amounts for highways, transit, and intercity rail.

Highway Trust Fund Solvency

Virtually all federal highway funding and most federal transit funding come 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, for FY2017, revenues are projected to be approximately $42 billion, while authorized outlays are projected to be approximately $56 billion.[4] Congress transferred about $143 billion, mostly from the general fund of the Treasury, to the Highway Trust Fund during the period FY2008-FY2016 to keep the trust fund solvent.[5]

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 gasoline sales as 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. Consequently, CBO expects Highway Trust Fund revenues of $40 billion to $42 billion annually from FY2017 to FY2026, well short of the annual level of projected expenditures from the fund.[6]

[3] This number, taken from S.Rept. 114-243 , 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.

[4] Congressional Budget Office, "Projections of Highway Trust Fund Accounts—CBO's March 2016 Baseline," https://www.cbo.gov/sites/default/files/51300-2016-03-HighwayTrustFund.pdf.

[5] Congressional Budget Office, "Approaches to Make Highway Spending More Productive," February 2016, p. 1, https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/50150-Federal_Highway_Spending-OneCol.pdf.

[6] Congressional Budget Office, "Projections of Highway Trust Fund Accounts—CBO's March 2016 Baseline," https://www.cbo.gov/sites/default/files/51300-2016-03-HighwayTrustFund.pdf.

National Infrastructure Investment (TIGER Grants)

For FY2017, the Administration requested $1.25 billion for TIGER grants, the same amount as in previous years. The Senate Committee on Appropriations recommended $525 million, $25 million above the FY2106 amount. The committee also recommended that the portion of funding allocated to projects in rural areas be increased from 20% to 30%; the same change was included in the Senate-passed bill in FY2016, but was not enacted.

The Transportation Investments Generating Economic Recovery (TIGER) grant program originated in the American Recovery and Reinvestment Act (P.L. 111-5), where it was called "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 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 DOT.[7]

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 minimum grant thresholds ($5 million for urban projects, $1 million for rural projects).

Congress has continued to support the TIGER program through annual DOT appropriations.[8] 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.[9]

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.[10] DOT has responded that while its project rankings are based on transportation-related criteria (e.g., safety, economic competitiveness), it must sometimes select lower-ranking projects over higher-ranking ones to comply with other selection

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

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

[9] 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.

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

criteria established by Congress, such as geographic balance and a balance between rural and urban awards.[11]

Critics argue that TIGER grants go disproportionately to urban areas. 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.[12]

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 Appropriations

(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
FY2017	$1,250		$525	

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.

Essential Air Service (EAS)[13]

As **Table 6** shows, the Administration requested $150 million for the EAS program in FY2017, in addition to $104 million in mandatory funding for a total of $254 million. The Senate-reported bill would provide a total of $254 million, the requested amount. This is a reduction of $29 million (10%) from the FY2016 level. The requested reduction is based on an expectation of reduced costs as cost-saving measures previously enacted come into effect.

The program is funded through a combination of mandatory and discretionary budget authority. In addition to the annual discretionary appropriation, there is a mandatory annual authorization, $108 million in FY2016,[14] financed by overflight fees collected from commercial airlines by FAA. These overflight fees apply to international flights that fly over, but do not land in, the United States. The fees are to be reasonably related to the costs of providing air traffic services to such flights.

[11] Ibid., p. 6.

[12] 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.

[13] For more information about EAS, see CRS Report R44176, *Essential Air Service (EAS)*, by (name redacted).

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

Table 6. Essential Air Service Funding, FY2016-FY2017

(in millions of dollars)

	FY2016 Enacted	FY2017 Request	House	S. 2844 Senate-Reported	FY2017 Enacted
Appropriation	$175	$150		$150	
Mandatory supplement	108	104		104	
Total	$283	$254		$254	

Source: S.Rept. 114-243.

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 (see **Table 7**). Congress made changes to the program in 2012, including allowing no new entrants,[15] capping the per-passenger subsidy for a community at $1,000, limiting communities that are less than 210 miles from a hub airport to a maximum average subsidy per passenger of $200, and allowing smaller planes to be used for communities with few daily passengers.[16]

Table 7. Essential Air Service Program: Number of Communities and Annual Appropriations, FY2008-FY2016

	2008	2009	2010	2011	2012	2013	2014	2015	2016
# of EAS communities	146	153	159	155	163	160	NA	159	NA
Budget (millions of current $)	$109	$138	$200	$200	$216	$255	$268	$263	$283
Budget (millions of constant 2016 dollars)	$123	$156	$222	$217	$230	$268	$277	$268	$283

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: H.Rept. 113-464, p. 12; FY2015: H.Rept. 114-129; FY2016: S.Rept. 114-243.

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 1940-2021, Budget of the United States 2017. NA: not available.

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

[15] This limitation does not apply to Alaska or Hawaii. Forty-four (28%) of the EAS communities are in Alaska; none are in Hawaii.

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

subsidy cost per passenger is relatively high,[17] that many of the airports in the program have very few passengers,[18] and that some of the airports receiving EAS subsidies are little more than an hour's drive from major airports.

Intercity Rail Safety

In 2008, Congress directed railroads to install positive train control (PTC) on certain segments of the national rail network by the end of 2015. PTC is a communications and signaling system that is capable of preventing incidents caused by train operator or dispatcher error.[19] Freight railroads have reportedly spent billions of dollars thus far to meet this requirement, but most of the track required to have PTC installed was not in compliance at the end of 2015; in October 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.[20]

Congress provided $50 million in FY2010 and again in FY2016 for grants to railroads to help cover the expenses of installing PTC. The Administration's FY2017 budget request included $875 million for the cost of PTC implementation on commuter railroad routes. The Senate Committee on Appropriations recommended $199 million for PTC implementation on commuter and state-supported intercity passenger rail lines.

Intercity Passenger Rail Development

The Passenger Rail Reform and Investment Act of 2015 (Title XI of P.L. 114-94) reauthorized Amtrak while changing the structure of its federal grants: instead of getting separate grants for operating and capital expenses, it will now receive separate grants for the Northeast Corridor and the rest of its national network. This act also authorized three programs to make grants to states, public agencies, and rail carriers for intercity passenger rail development.

The Administration's FY2017 budget for intercity rail development requested a total of $6 billion in two new programs: a Current Rail Passenger Service Program, which would primarily fund maintenance and improvement of existing intercity passenger rail service (i.e., Amtrak), and a Rail Service Improvement 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 has made a similar proposal annually since FY2014. The Senate Committee on Appropriations recommended $1.42 billion for Amtrak, $30 million more than its FY2016 appropriation of $1.39 billion (see **Table 8**), and observed that creating a new transportation trust fund was a task for authorizing committees, not appropriations committees, while acknowledging that Amtrak has a state of good repair backlog of $28 billion on the Northeast Corridor.

[17] 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 pages 21-23 of S.Rept. 113-182.

[18] 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.

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

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

Table 8. Federal Intercity Passenger Rail Grant Program Funding, FY2016-FY2017

(in millions of dollars)

Program	FY2017 Authorized Level	FY2016 Enacted	FY2017 Administration Request	FY2017 Amtrak Independent Budget Request	House	S.Rept. 114-243 Senate-Reported	FY2017 Enacted
Amtrak: Northeast Corridor Grants	$474	NA	700	$621		$345	
Amtrak: National Network Grants	1,026	NA	1,200	1,213		1,075	
Subtotal, Amtrak	**1,500**	**1,390**	**1,900**	**1,834**		**1,420**	
Consolidated Rail Infrastructure and Safety Improvement	190	NA	3,700	—		50	
Federal-State Partnership for State of Good Repair Grants	140	NA	400	—		20	
Restoration and Enhancement Grants	20	NA	—	—		15	
Total Intercity Passenger Rail Grant Funding	**$1,850**	**$1,390**	**$6,000**	**—**		**$1,505**	

Source: Authorized level: Title XI of P.L. 114-94; funding: S.Rept. 114-243.

Notes: Amtrak submits a budget request directly to Congress each year, separate from DOT's request for Amtrak funding. Amtrak received $1,390 million in FY2016 under a different account structure. NA ("not applicable"): these accounts were created by the FAST Act (P.L. 114-94), which was enacted after the beginning of FY2016.

The $85 million recommended by the Senate Committee on Appropriations for intercity passenger rail grants in FY2017 in addition to the grants to Amtrak would be the first funding provided for intercity passenger rail (other than grants for positive train control implementation) since the 111th Congress (2009-2010), which provided $10.5 billion for DOT's high-speed and intercity passenger rail grant program. Since then, Congress has provided no additional funding, and in FY2011 rescinded $400 million that had been appropriated but not yet obligated.

Federal Transit Administration Capital Investment Grants

The majority of the Federal Transit Administration's (FTA's) roughly $12 billion in funding is funneled to state and local transit agencies through several formula programs. The largest discretionary transit 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[21] and extensions to existing lines. The program has four components. New Starts funds capital projects with total costs over $300 million that are seeking more than $100 million in federal funding. Small Starts funds capital projects with total costs under $300 million that are seeking less than $100 million in federal funding. Core Capacity grants are for projects that will increase the capacity of existing systems. The Expedited Project Delivery Pilot Program will provide funding for eight projects in the previous three categories that require no more than a 25% federal share and are supported, in part, by a public-private partnership.

The Capital Investment Grants program funds for any project are typically disbursed over a period of years. Much of the funding for this program each year is committed to projects with multiyear grant agreements signed in previous years.

For FY2017, the Administration requested $3.5 billion for the program, $1.323 billion (61%) more than the $2.177 billion provided in FY2016. The Senate Committee on Appropriations recommended $2.338 billion, the authorized level, which is 7% ($161 million) above the FY2016 level.

A New Starts grant, by statute, can be up to 80% of the net capital project cost. Since FY2002, DOT appropriations acts have included a provision directing FTA not to sign any full funding grant agreements for New Starts projects that would provide a federal share of more than 60%. That provision is not included in the Senate-reported bill.

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 the higher federal share makes highway projects relatively more attractive than public transportation projects 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 the District of Columbia and the states of Maryland and Virginia. Under this agreement, Congress has provided $150 million to WMATA in each of the past six years.

WMATA faces a number of difficulties. It is dealing with a backlog of maintenance needs due to inadequate maintenance investment over many years, and it has experienced several fatal incidents, most recently in January 2015, and a number of other incidents that have raised questions about the safety culture of the agency. An investigation that found numerous instances

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

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. The three jurisdictions are to create a new, more effective oversight entity to replace the Tri-State Oversight Commission. The National Transportation Safety Board has recommended that oversight of WMATA's rail operations be assigned to the Federal Railroad Administration (FRA), which has a long history of safety enforcement, rather than the FTA, which is primarily a grant management agency. However, Congress would have to act to give FRA authority to oversee WMATA, while FTA already has such authority.

For FY2017, the Senate Committee on Appropriations recommended $150 million for WMATA, while expressing frustration at the lack of progress the agency has made in improving safety with the additional funding it has been receiving.

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

The Senate-reported bill makes a technical correction to a provision from the FY2016 THUD act, and makes a provisional change in the hours-of-service rule. The FY2016 THUD act included a provision that suspends portions of the commercial driver hours-of-service rules pending a study of their costs and benefits. These Federal Motor Carrier Safety Administration (FMCSA) rules took effect in June 2013. Prior to that time, drivers were required to take at least 34 hours off duty after working for 60 hours in a seven-day period (or 70 hours in an eight-day period); this was referred to as the "34-hour restart requirement." The 2013 rules required that the 34-hour off-duty period cover two consecutive 1 a.m.-5 a.m. periods, and drivers were limited to taking 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 works eight hours every day, for a total of 56 hours in any seven-day period, that driver is not required to take 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 could start their 34 hour rest period at any time of the day, and could take more than one such rest period per seven-day period. 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 not allow sufficient rest over time to prevent driver fatigue. By requiring that the 34-hour restart period cover two 1 a.m.-5 a.m. periods, the 2012 rule was intended to allow drivers to get more sleep during the night hours, when studies indicate that sleep is most restorative (compared to sleeping during other times of the day).

A provision included in the FY2016 THUD appropriations act prohibited enforcement of the new requirements, returning the rule to what it was prior to June 2013, unless a 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 set in the FY2015 DOT appropriations act, P.L. 113-235, which set as the standard whether the study showed a "greater net benefit for the operational, safety, health and fatigue impacts of the restart provisions."

The Senate-reported bill makes a technical correction to the provision in the FY2016 THUD bill.[22] It also provides that, should the results of the study be such that the rule changes implemented in 2013 are rolled back, the maximum work time for a driver would be 73 hours in a seven-day period (down from the potential 82 hours calculated by FMCSA).

FMCSA published a cost-benefit analysis in the final rule that implemented the 2013 changes, which found that the changes were cost-beneficial, but critics of the changes said that the costs were greater than FMCSA had estimated. The new study has been completed and is under review by the Secretary of Transportation.

Author Contact Information

(name redacted)
Analyst in Transportation Policy
[redacted]@crs.loc.gov , 7-....

[22] The first sentence in Section 133 of Division L, Title I of P.L. 114-113 appears to have a typographical error; as a result, the sentence can be read as suspending Section 395 of Title 49 of the *Code of Federal Regulations*, though that does not appear to have been its intention. Section 131 of the Senate-reported bill revises Section 133 of the public law to eliminate that interpretation.