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Department of Transportation (DOT): FY2018 Appropriations

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Summary

Congress appropriated $86.2 billion for the Department of Transportation (DOT) for FY2018. This represented a $9.1 billion (11.8%) increase over the amount provided in FY2017. The principal reason for the higher spending level was increases in funding from the general fund for highways, public transportation capital investments, and passenger rail projects. The appropriation was included in an omnibus spending bill, P.L. 115-141, Title I of Division L, the DOT Appropriations Act.

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 fall 2015, and their future funding authorizations were somewhat increased.

The Trump Administration proposed a $75 billion budget for DOT for FY2018, including $16.4 billion in discretionary funding and $58.7 billion in mandatory funding. That was approximately $2 billion less than was provided for FY2017. The budget request reflected the Administration's call for significant cuts in funding for transit and rail programs.

The annual appropriations for DOT are combined with those for the Department of Housing and Urban Development (HUD) in the Transportation, Housing and Urban Development, and Related Agencies (THUD) appropriations bill. The House Appropriations Committee reported H.R. 3353, the THUD FY2018 appropriations bill, in which Division A provided FY2018 appropriations for DOT. The committee recommended $77.5 billion in new budget authority for DOT, 0.5% ($400 million) more than ultimately approved for FY2017 and roughly 3% ($2.4 billion) more than the Administration requested.

The Senate Appropriations Committee reported out an FY2018 THUD bill, S. 1655, which was not taken up by the full Senate. The Senate committee recommended $78.6 billion in new budget authority, 2% ($1.6 billion) more than the comparable FY2017 amount and 4.7% ($3.5 billion) more than the Administration requested.

Conflicts over funding levels and limits delayed action on final FY2018 appropriations until March 2018. Until that time, a series of continuing resolutions provided temporary funding for federal agencies.

There is general agreement that more funding is needed for transportation infrastructure, and the Trump Administration has proposed an increase in spending on 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 has transferred money from the general fund to the Highway Trust Fund on several occasions since 2008 to provide sufficient funding for the programs. Revenue estimates by the Congressional Budget Office (CBO) suggest that general fund transfers will continue to be required in future years to support the currently authorized level of highway and public transportation spending.

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Introduction

The Trump Administration requested $75.1 billion[1] for the Department of Transportation (DOT) for FY2018, 2.6% ($2 billion) less than DOT received in FY2017. The Administration proposed significant cuts in funding for competitive grant programs, zeroing out the TIGER infrastructure investment grant program and the Essential Air Service (EAS) program, and reducing spending on public transportation capital grants and Amtrak's long-distance trains by half or more.

Around 75% of DOT's funding is mandatory budgetary authority drawn from trust funds; the Administration's request would have drawn a slightly larger portion (78%) from mandatory budget authority, reducing the amount of discretionary budget authority in DOT's budget from $19.3 billion in 2017 to $16.4 billion for FY2018.

On July 21, 2017, the House Committee on Appropriations reported H.R. 3353. The committee recommended $77.5 billion for DOT, a 0.5% ($430 million) increase over the comparable FY2017 amount and 3% ($2.4 billion) above the Administration request.

On July 27, 2017, the Senate Committee on Appropriations reported S. 1655. It recommended a total of $78.6 billion in new budget authority for DOT for FY2018 ($78.5 billion after scorekeeping adjustments), 2% ($1.6 billion) above the comparable FY2017 amount and 4.7% ($3.5 billion) over the Administration request.

Conflicts over funding levels and spending limits for federal agencies delayed action on final FY2018 appropriations until March 2018. Until that time, a series of continuing resolutions provided temporary funding for federal agencies. Finally, after passing legislation raising the spending limits for federal agencies for FY2018, Congress passed an omnibus spending bill, P.L. 115-141, which included increased spending for most agencies. Title I of Division L, the DOT Appropriations Act, provided $86.2 billion, 11.8% ($9.1 billion) more than in FY2017.

Understanding the DOT Appropriations Act

DOT's funding arrangements are unusual compared to those of most other federal agencies, in that most of its funding is mandatory budget authority coming from trust funds, and most of its expenditures take the form of grants to states and local government authorities.

Discretionary appropriations constitute most, if not all, of the annual funding for most federal agencies. But roughly three-fourths of DOT's funding has come from mandatory budget authority derived from trust funds.[2] A significant increase in discretionary funding for DOT in its FY2018 appropriation changed that proportion slightly, increasing the share of discretionary funding to almost a third of DOT's budget. **Table 1** shows the shift in the breakdown between the discretionary and mandatory funding in DOT's budget from FY2017 to FY2018.

[1] This number, calculated from H.Rept. 115-237, 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] 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.

Table 1. DOT Budget Authority, FY2017-2018

(billions of dollars)

Budget Authority (BA)	FY2017 Amount	FY2017 Percent of Total	FY2018 Amount	FY2018 Percent of Total
DOT discretionary BA	$19.3	25%	$27.3	32%
DOT mandatory BA	57.7	75%	58.9	68%
DOT total budgetary resources	$77.1	100%	$86.2	100%

Source: Prepared by CRS based on figures in the Comparative Statement of Budget Authority in the explanatory statement for Division L of P.L. 115-141.

Note: Budget authority figures in this table do not include rescissions.

Two large trust funds, the Highway Trust Fund and the Airport and Airway Trust Fund, have typically provided around 90% of DOT's annual funding in recent years (92% in FY2017), but in FY2018 a significant increase in discretionary budget authority resulted in the proportion drawn from trust funds dropping to 83%, despite the actual amount increasing by $1 billion; see **Table 2**. The scale of the funding coming from these trust funds is not entirely obvious in DOT budget tables, because most of the funding from the Airport and Airway Trust Fund is categorized as discretionary budget authority and so is combined with the discretionary budget authority provided from the general fund.

Table 2. DOT Budget Authority Sources, FY2017-FY2018

(billions of dollars)

Source	FY2017 Amount	FY2017 % of Total DOT Budget Authority	FY2018 Amount	FY2018 % of Total DOT Budget Authority
Airport and Airway Trust Fund	$15.8	21%	$15.6	18%
Highway Trust Fund (including mass transit account)	55.1	72%	56.3	65%
Subtotal, budget authority derived from trust funds	**70.9**	**92%**	**71.9**	**83%**
Other	6.1	8%	14.2	17%
Total new budget authority	$77.1	100%	$86.2	100%

Source: Calculated by CRS using information from Title I of Division K of P.L. 115-31, the Consolidated Appropriations Act, 2017 and Title I of Division L of P.L. 115-141.

Note: "Other" is the amount of new budget authority for DOT drawn from the General Fund of the Treasury and offsetting receipts rather than from transportation trust funds. The figure is smaller than the bill's discretionary funding level because most of the funding appropriated from the Airport and Airway Trust Fund is categorized as discretionary budget authority. Numbers may not add due to rounding.

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 grants.

Table 3. DOT Grant Accounts and Amounts, FY2017-FY2018

(millions of dollars)

Account	FY2017	FY2018
Office of the Secretary: National Infrastructure Improvement (TIGER)	$500	$1,500
Federal Aviation Administration: Grants-in-Aid to Airports	3,350	3,350
Federal Highway Administration: Federal-aid Highway Program	43,569	47,055
Federal Motor Carrier Safety Administration: Motor Carrier Safety Grants	367	562
National Highway Traffic Safety Administration: Highway Traffic Safety Grants	585	598
Federal Railroad Administration: Grants to Amtrak & Other Rail Grants	1,593	2,804
Federal Transit Administration: Formula Grants	9,734	9,733
Federal Transit Administration: Capital Investment Grants (New Starts & Small Starts)	2,413	3,479
Federal Transit Administration: WMATA Capital & Preventive Maintenance Grants	150	150
Maritime Administration: Assistance to Small Shipyards	10	20
Pipeline and Hazardous Materials Safety Administration: Emergency Preparedness Grants	28	28
Total Grant Accounts	62,299	69,279
Total DOT Funding	$77,070	$86,185

Source: Accounts and amounts taken from Comparative Statement of Budget Authority in the explanatory statement for Division L of P.L. 115-141.

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 highway, transit, and rail programs are currently authorized through FY2020, but the authorization for the federal aviation programs was scheduled to expire at the end of FY2017; it was extended to the end of FY2018. Reauthorization of this program may affect both its structure and funding level.[3]

DOT Funding Trend

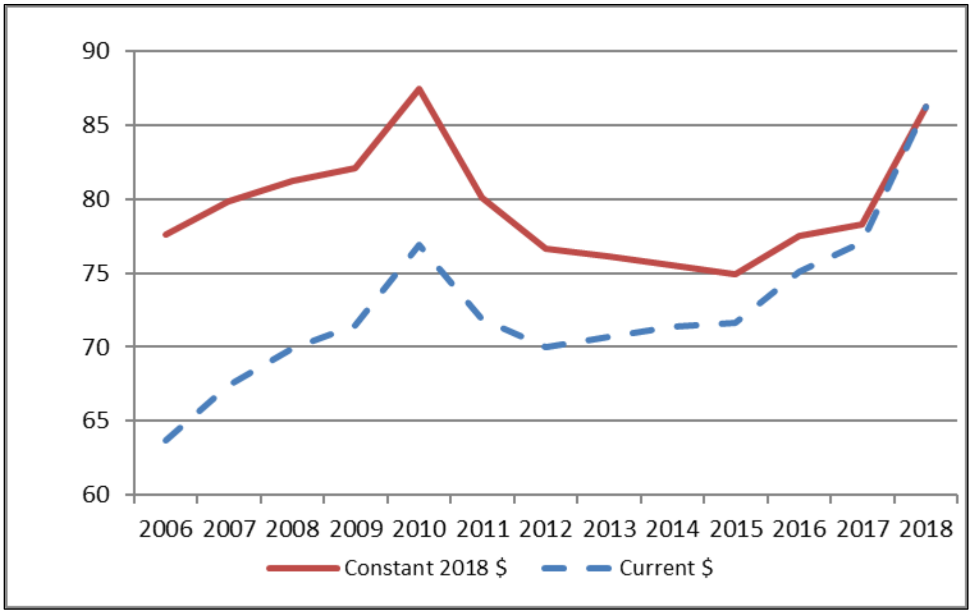
In current (nominal) dollars, DOT's nonemergency annual funding has risen from a recent low of $70 billion in FY2012 to $86 billion in FY2018. However, adjusting for inflation tells a different story. DOT's inflation-adjusted funding peaked in FY2010 at $87.5 billion (in constant 2018

[3] For more information, see CRS Report R45207, *Federal Aviation Administration (FAA) Reauthorization Issues and Debate in the 115th Congress*, by (name redacted) and (name redacted)

dollars) and declined from that point until FY2015, then began rising again in FY2016 (see **Figure 1**). DOT's real funding, adjusted for inflation, was roughly the same in FY2016 and FY2017 as in FY2006; from FY2012-FY2017, DOT's inflation-adjusted funding was lower than during the FY2007-FY2011 period.

Figure 1. DOT Funding Trend (FY2006-FY2018)

(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: 1940-2023) from the FY2019 Budget Request: Historical Tables (https://www.whitehouse.gov/omb/historical-tables/).

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 FY2018 Appropriations

Table 4 presents a selected account-by-account summary of FY2018 appropriations for DOT, compared to FY2017.

Table 4. Department of Transportation FY2017-FY2018 Detailed Budget Table

(millions of current dollars)

Department of Transportation Selected Accounts	FY2017 Enacted	FY2018 Request	FY2018 House Reported	FY2018 Senate Reported	FY2018 Enacted
Office of the Secretary (OST)					
Payments to air carriers (Essential Air Service)[a]	$150	—	$150	$155	$155
National infrastructure investment (TIGER)	500	—	—	550	1,500
Total, OST	826	171	306	871	1,844
Federal Aviation Administration (FAA)					
Operations	10,026	9,891	10,185	10,186	10,212
Facilities & equipment	2,855	2,766	2,855	3,005	3,250
Research, engineering, and development	177	150	170	179	189
Grants-in-aid for airports (Airport Improvement Program) (limitation on obligations)	3,350	3,350	3,350	3,600	4,350[b]
Total, FAA	16,407	16,126	16,560	16,970	18,001
Federal Highway Administration (FHWA)					
Federal-Aid Highways: limitation on obligations + exempt contract authority)	44,005[c]	44,973	44,973	44,973	44,973
Federal-Aid Highways: discretionary funding	—	—	—	—	2,525
Total, FHWA	44,005	44,973	44,973	44,973	47,498
Federal Motor Carrier Safety Administration (FMCSA)					
Motor carrier safety operations and programs	277	283	283	283	283
Motor carrier safety grants to states	367	375	475	462	562
Total, FMCSA	644	658	758	745	845
National Highway Traffic Safety Administration (NHTSA)					
Operations and research	326	302	329	311	338
Highway traffic safety grants to states (limitation on obligations)	585	598	598	598	598
Impaired driving/Highway-rail grade crossing safety	—	—	—	—	12
Total, NHTSA	911	899	927	909	947
Federal Railroad Administration (FRA)					
Safety and operations	218	199	218	210	222
Research and development	40	39	40	40	40
Railroad Rehabilitation and Improvement Financing Program subsidy	—	—	—	—	25

Department of Transportation Selected Accounts	FY2017 Enacted	FY2018 Request	FY2018 House Reported	FY2018 Senate Reported	FY2018 Enacted
Amtrak					
Northeast Corridor grants	328	235	328	358	650
National Network	1,167	525	1,100	1,242	1,292
Subtotal Amtrak grants	1,495	760	1,428	1,600	1,942
Consolidated rail infrastructure and safety improvements	68	25	25	93	593
Federal-state partnership for State of Good Repair	25	26	500	26	250
Restoration and enhancement grants	5	—	—	5	20
Total, FRA	1,851	1,149	2,211	1,974	3,091
Federal Transit Administration (FTA)					
Formula grants (M)	9,734	9,733	9,733	9,733	9,733
Technical assistance and training	5	—	—	—	5
Capital Investment Grants (New Starts)	2,413	1,232	1,753	2,133	2,645
Transit Infrastructure Grants	—	—	—	—	834
Washington Metropolitan Area Transit Authority	150	150	150	150	150
Total, FTA	12,415	11,226	11,752	12,129	13,480
Maritime Administration (MARAD)					
Maritime Security Program	300	210	300	300	300
Operations and training	176	172	176	229	514
Assistance to small shipyards	10	—	3	10	20
Ship disposal	34	9	9	9	116
Maritime Guaranteed Loan Program	3	—	3	30	30
Total, MARAD	523	391	491	578	980
Pipeline and Hazardous Materials Safety Administration (PHMSA)					
Subtotal	236	231	240	244	244
Offsetting user fees	-136	-132	-139	-139	-139
Emergency preparedness grants (M)	28	28	28	28	28
Total, PHMSA	100	99	101	105	105
Office of Inspector General	90	87	92	92	92
Saint Lawrence Seaway Development Corporation	36	28	31	36	40
DOT Totals					
Appropriation (discretionary funding)	19,344	16,379	18,641	19,583	27,276
Limitations on obligations (M)	57,725	58,722	58,822	59,059	58,909
Subtotal—new funding	**77,070**	**75,101**	**77,463**	**78,642**	**86,185**

Department of Transportation Selected Accounts	FY2017 Enacted	FY2018 Request	FY2018 House Reported	FY2018 Senate Reported	FY2018 Enacted
Rescissions of discretionary funding	—	-31	—	—	—
Rescissions of contract authority	-857	—	-800	-118	—
Net new discretionary funding	**18,487**	**16,348**	**17,841**	**19,466**	**27,276**
Net new budget authority	**$76,213**	**$75,070**	**$76,663**	**$78,525**	**$86,185**

Sources: Table prepared by CRS based on information in H.Rept. 115-237, S.Rept. 115-138, and the text and explanatory statement for Division L of P.L. 115-141.

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

b. $3.35 billion in contract authority and $1 billion in discretionary budget authority.

c. Does not include $857 million in rescission of contract authority; the budgetary treatment of contract authority is such that a rescission reduces the appropriation level for accounting purposes but, in this case, does not reduce the funding made available for use.

Selected Issues

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, annual expenditures from the fund have exceeded revenues; for example, for FY2018, revenues and interest are projected to be approximately $41 billion, while authorized outlays are projected to be approximately $54 billion, and this shortfall is expected to continue.[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 fuel 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 $39 billion to $41

[4] Congressional Budget Office, "Projections of Highway Trust Fund Accounts—CBO's April 2018 Baseline," https://www.cbo.gov/system/files?file=2018-06/51300-2018-04-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.

billion annually from FY2018 to FY2027, well short of the annual level of projected expenditures from the fund.[6]

National Infrastructure Investment (BUILD/TIGER Grants)[7]

The Administration did not request any funding for TIGER grants for FY2018. The House committee likewise recommended no funding for FY2018, while the Senate committee recommended $550 million. The Senate bill 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 DOT appropriations bills in FY2016 and FY2017, but was not enacted. The enacted bill provided $1.5 billion for the program, increased the portion for projects in rural areas to 30%, and made planning an eligible expense. It also directed DOT to award the grants within 270 days of enactment.

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 most federal transportation funding is divided according to mode of transportation, making it difficult for projects in different modes to compete for funds 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.[8]

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.[9] It is heavily oversubscribed; for example, DOT announced that it received applications totaling $9.3 billion for the $500 million available for FY2016 grants.[10]

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[6] Congressional Budget Office, "Projections of Highway Trust Fund Accounts—CBO's April 2018 Baseline," https://www.cbo.gov/sites/default/files/recurringdata/51300-2017-01-highwaytrustfund.pdf.

[7] In the spring of 2018 the Administration changed the name of the TIGER grant program to BUILD (Better Utilizing Investments to Leverage Development) Transportation grants.

[8] For more information, see DOT's website: https://www.transportation.gov/BUILDgrants.

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

[10] U.S. Department of Transportation, "U.S. Transportation Secretary Foxx Announces TIGER Awards Nearly $500 Million in Grants to Projects Focused on Safety and Economic Opportunity," July 29, 2016, https://www.transportation.gov/briefing-room/us-transportation-secretary-foxx-announces-tiger-awards-nearly-500-million-grants.

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.[11] DOT has responded that while its project rankings are based on transportation-related criteria, such as safety and economic impact, it must sometimes select lower-ranking projects over higher-ranking ones to comply with other selection criteria established by Congress, such as geographic balance and a balance between rural and urban awards.[12]

Some critics argue that TIGER grants go disproportionately to urban areas, but for several years Congress directed that at least 20% of TIGER funding should go to projects in rural areas, which roughly equals the proportion of the U.S. population that lives in rural areas (19%, according to the 2010 Census[13]). In recent years, the Senate had pushed to increase that proportion to 30%, and for FY2018 grants the portion for rural areas was increased to 30%.

As **Table 5** illustrates, the TIGER grant appropriation process has followed a pattern for several years, with the Obama Administration requesting as much as or more than Congress had previously provided; the House zeroing out the program or proposing a large cut; the Senate proposing an amount similar to the previous appropriation; and Congress agreeing on a final enacted amount similar to the previously enacted amount. The FY2018 appropriations process changed the pattern slightly, in that the Trump Administration requested no funding for TIGER grants.

Table 5. Recent TIGER Grant Appropriations

(millions of current dollars)

	Budget Request	House	Senate	Enacted
FY2013	$500	$0	$500	$500
FY2014	500	—	550	600
FY2015	1,250	100	550	500
FY2016	1,250	100	500	500
FY2017	1,250	450	525	500
FY2018	—	—[a]	$550[b]	1,500

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

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

a. Recommended by House Appropriations Committee.

b. Recommended by Senate Appropriations Committee.

[11] 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.

[12] Ibid., p. 6.

[13] 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.

Additional Infrastructure Funding

The FY2018 enacted legislation included significant increases in funding for infrastructure for aviation, highways, passenger rail, and transit, in some cases beyond the authorized levels, in other cases provided in newly created accounts.

Table 6. Selected Increases in Infrastructure Funding, FY2017-FY2018

(millions of dollars)

Program	FY2017	FY2018
BUILD Transportation (TIGER) grants	$500	$1,500
FAA Discretionary Grants	—	1,000
FHWA Highway Infrastructure Programs Grants to States	—	2,525
FRA Grants (including Amtrak)	1,593	2,804
FTA Transit Infrastructure Grants	—	834

Source: Prepared by CRS based on text and explanatory statement for Division L of P.L. 115-141.

Notes: Selected accounts represent newly created accounts or accounts receiving percentage increases greater than 75%.

Essential Air Service[14]

The Essential Air Service 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, estimated at $119 million for FY2018,[15] financed by overflight fees collected from commercial airlines by FAA. These overflight fees apply to international flights that fly through U.S. airspace, but do not land in or take off from 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 Trump Administration requested no discretionary funding for the EAS program in FY2018, proposing to use only the available mandatory funding for the program; it estimated that $119 million in mandatory funding would be available in FY2018. That would result in a reduction of 56% ($153 million) from the total FY2017 appropriation. The House committee bill recommended a $150 million discretionary appropriation, as was provided in FY2017; combined with the estimated mandatory funding, that would represent a 2.3% ($6 million) increase over FY2017. The Senate committee bill recommended a $155 million discretionary appropriation; combined with the estimated mandatory funding, that would result in a 4.2% ($11 million) increase.

The enacted bill provided $155 million in discretionary funding, identical to the Senate bill; combined with an increase in the mandatory funding, EAS received a total of $286 million, a $22 million (8.7%) increase over FY2017.

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

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

Table 7. Essential Air Service Funding, FY2017-FY2018

(millions of dollars)

	FY2017 Enacted	FY2018 Request	FY2018 House-Reported	FY2018 Senate-Reported	FY2018 Enacted
Appropriation	$150	—	$150	$155	$155
Mandatory supplement	113	119	119	119	131
Total	$263	$119	$269	$274	$286

Source: H.Rept. 115-237, S.Rept. 115-138, the text and explanatory statement for Division L of P.L. 115-141, and S.Rept. 115-268.

Note: The House report gives a figure of $263 million for the FY2017 enacted level, with $113 million in mandatory funding, as does the DOT FY2018 Budget Estimate; the Senate report gives a figure of $250 million, with $100 million in mandatory funding.

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 8**). Congress made changes to the program in 2012, including allowing no new entrants,[16] 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.[17]

Table 8. Essential Air Service Program: Number of Communities and Annual Appropriations, FY2009-FY2018

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
# of EAS communities	153	159	155	163	160	NA	159	173	175	175
Budget (millions of current $)	$138	$200	$200	$216	$255	$268	$263	$283	$263	$286
Budget (millions of constant 2017 $)	$157	$224	$219	$231	$269	$279	$272	$290	$263	$286

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; number of EAS communities in 2017 and 2018 is approximate, from U.S. Department of Transportation, *Essential Air Service*, https://www.transportation.gov/policy/aviation-policy/small-community-rural-air-service/essential-air-service.

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 1940-2022, from the *Budget of the United States 2018, Historical Tables*. NA = not available.

[16] This limitation does not apply to Alaska or Hawaii. Approximately 60 (34%) of the EAS communities are in Alaska; two are in Hawaii.

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

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,[18] that many of the airports in the program have very few passengers,[19] and that some of the airports receiving EAS subsidies are little more than an hour's drive from major airports.

Positive Train Control

In 2008, Congress directed railroads to install positive train control (PTC) on certain segments of the national rail network by the end of 2015.[20] PTC is a communications and signaling system that is capable of preventing incidents caused by train operator or dispatcher error.[21] 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.[22]

Congress provided $50 million in FY2010 and again in FY2016 for grants to railroads to help cover the expenses of installing PTC, and $199 million in FY2017 to help commuter railroads implement PTC. The Trump Administration's FY2018 budget request did not include any funding for the cost of PTC implementation, nor did the House or Senate Appropriations Committees recommend any funding for this purpose. The enacted FY2018 bill provided $250 million for PTC implementation under the Consolidated Rail Infrastructure and Safety Improvements grant program, and made up to $50 million of Amtrak's National Network grant available for PTC projects on state-supported routes where PTC is not required by law.

Railroad Rehabilitation and Infrastructure Financing (RRIF) Loan Program

The RRIF loan program provides direct loans and loan guarantees to state and local governments, government-sponsored entities, and railroads for rehabilitation or development of rail facilities and equipment. The program's resources are relatively lightly used; it is authorized to make up to $35 billion in loans, but has less than $5 billion outstanding, and has made only four loans since 2012. One of the factors that has been cited as reducing the attractiveness of the program is the requirement that loan recipients pay a credit risk premium to offset the risk of their defaulting on their loan. For the first time, the FY2018 appropriation act provided funding ($25 million) to subsidize the cost of the credit risk premium.

[18] To remain eligible for the program, a community's subsidy per passenger must not exceed $1,000. The per-passenger subsidy in FY2016 varied among communities, from $9 to $778. Information on EAS communities' subsidy per passenger is in Appendix A of CRS Report R44176, *Essential Air Service (EAS)*, by (name redacted).

[19] 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. One community lost service due to this requirement, while several communities have failed to reach the threshold but have been granted waivers. See CRS Report R44176, *Essential Air Service (EAS)*, by (name reda cte d).

[20] P.L. 110-432.

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

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

Another point of contention with the RRIF program has been DOT's failure to repay the credit risk premium to borrowers who have paid off their loans. The program's statute calls for a borrower's credit risk premium to be repaid when all the loans in that cohort of loans have been paid off, but DOT has never defined what a cohort of loans is. Congress has directed DOT to define a cohort as all loans executed in a particular year; it reiterated that directive in the FY2018 appropriations act, and told DOT to repay the credit risk premiums when all loans in a cohort have been repaid.

Amtrak and 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 now receives separate grants for the Northeast Corridor and the rest of its national network. This act also authorized three new programs to make grants to states, public agencies, and rail carriers for intercity passenger rail development:

- Consolidated Rail Infrastructure and Safety Improvement Grants
- Federal-State Partnership for State of Good Repair Grants
- Restoration and Enhancement Grants

The Administration's FY2018 budget requested a total of $811 million for intercity passenger rail funding: $760 million for grants to Amtrak and $51 million for two of the new grant programs.

The House Appropriations Committee recommended $1.4 billion for Amtrak and a total of $525 million for two of the new grant programs.

The Senate committee recommended $1.6 billion for Amtrak and a total of $124 million for the three new grant programs (see **Table 9**). It specified that $41 million of the $124 million recommended for the grant programs could be used to initiate or restore intercity passenger rail services, and advised Amtrak and other stakeholders to seek that funding for restoration of Amtrak's Gulf Coast service, which was interrupted in 2007 and never fully restored. It also noted that funding under the Federal-State Partnership for State of Good Repair program could be used for Amtrak's Hudson Tunnel replacement project (without naming that project).

The final FY2018 act provided $1.9 billion for Amtrak, an increase of 30% ($447 million) over FY2017, and a total of $863 million for the new grant programs.

Table 9. Federal Intercity Passenger Rail Grant Program Funding, FY2017-FY2018

(millions of dollars)

Program	FY2017 Enacted	FY2018 Authorized Level	FY2018 Administration Request	FY2018 Amtrak Independent Budget Request	FY2018 House Reported	FY2018 Senate Reported	FY2018 Enacted
Amtrak: Northeast Corridor Grants	$328	$515	$235	$358	$328	$358	$650
Amtrak: National Network Grants	1,167	1,085	525	1,242	1,100	1,242	1,292

Program	FY2017 Enacted	FY2018 Authorized Level	FY2018 Administration Request	FY2018 Amtrak Independent Budget Request	FY2018 House Reported	FY2018 Senate Reported	FY2018 Enacted
Subtotal, Amtrak	**1,495**	**1,600**	**760**	**1,600**	**1,428**	**1,600**	**1,942**
Consolidated Rail Infrastructure and Safety Improvement	68	230	26	NA	25	93	593
Federal-State Partnership for State of Good Repair Grants	25	175	25	NA	500	26	250
Restoration and Enhancement Grants	5	20	—	NA	—	5	20
Total Intercity Passenger Rail Grant Funding	**$1,593**	**$2,025**	**$811**	**NA**	**$1,953**	**$1,724**	**$2,804**

Source: Authorized level: Title XI of P.L. 114-94; Amtrak independent request: https://www.amtrak.com/ccurl/372/30/Amtrak-FY18-General-Legislative-Annual-Report-FINAL.pdf; funding: H.Rept. 115-237 and S.Rept. 115-138.

Notes: Amtrak submits a budget request directly to Congress each year, separate from DOT's request for Amtrak funding. NA ("not applicable"): these accounts are not included in Amtrak's independent budget request.

The $98 million provided for the three new intercity passenger rail grants in FY2017 was the first funding provided for intercity passenger rail (other than annual grants to Amtrak and the occasional grants for PTC implementation) since the 111th Congress (2009-2010), which provided $10.5 billion for DOT's high-speed and intercity passenger rail grant program. From FY2011 to FY2016, Congress provided no funding for intercity passenger rail development, and in FY2011 it rescinded $400 million that had been appropriated for that purpose 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 programs that distribute the funding by formula. Of the few transit grant programs that are discretionary (i.e., awarding funding to applicants selectively, usually on a competitive basis), the largest is the Capital Investment Grants program (often referred to as the New Starts program, as that is the largest and best known of its component grant programs). It funds new fixed-guideway transit lines[23] and extensions to existing lines. The program has three 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

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

federal funding; and Core Capacity grants are for projects that will increase the capacity of existing systems. There is also an Expedited Project Delivery Pilot, intended to provide funding for eight projects eligible for any of the three programs that require no more than a 25% federal share and are supported, in part, by a public-private partnership.

Grant funds for large projects are typically disbursed over a period of years. Much of the funding for this program each year is committed to projects already under construction with multiyear grant agreements signed in previous years.

For FY2018, the Trump Administration requested $1.2 billion for Capital Investment Grants, 50% ($1.323 billion) less than the $2.4 billion provided in FY2017. The Administration stated an intention to approve no new projects, only to provide funding to projects that had previously been approved for funding. The Administration request noted that there were "66 projects in the program seeking funding, more than at any time in the program's 30-year history—a clear indication of the intense demand from communities around the United States for new and expanded transit services."[24]

The House Committee on Appropriations recommended $1.8 billion, which is 42% ($521 million) more than requested but 27% ($660 million) below the FY2017 level. The House committee did not recommend funding for any new projects during FY2018, save for funding that appears to be provided for Amtrak's Hudson Tunnel project.

The Senate Committee on Appropriations recommended $2.1 billion, 73% ($901 million) more than requested but 12% ($280 million) below the FY2017 level.

The final FY2018 act provided $2.6 billion, 9.6% ($232 million) more than the FY2017 level, and over twice the amount requested by the Administration. The division of funding among the components of the Capital Investment Grants program is shown in **Table 10**.

Table 10. FTA Capital Investment Grants Funding by Component

(millions of dollars)

Component	FY2017 Enacted	FY2018 Request	FY2018 House Reported	FY2018 Senate Reported	FY2018 Enacted
New Starts[a]	**$1,745**	**$1,008**	**$1,008**	**$1,462**	**1,507**
With signed FFGA	1,460	1,008	1,008	1,008	—
Anticipated to sign FFGA in FY2017	285	—	—	454	—
Small Starts	**408**	**—**	**182**	**318**	**401**
Grants already awarded	NS	—	NS	150	—
New grants	NS	—	NS	168	—
Core Capacity	**333**	**100**	**146**	**346**	**716**
With signed FFGA	100	100	100	200	—
Anticipated to sign FFGA during FY2018	233	—	46	146	—

[24] U.S. Department of Transportation, *Federal Transit Administration FY2018 Budget Estimate*, p. CIG – 9, https://www.transportation.gov/sites/dot.gov/files/docs/mission/budget/281181/fy-2018-cj-budget-final52417.pdf.

Component	FY2017 Enacted	FY2018 Request	FY2018 House Reported	FY2018 Senate Reported	FY2018 Enacted
Expedited Project Delivery Pilot	20	—	—	—	—
Joint Public Transportation and Intercity Rail Projects	—	—	400	—	—
Total	2,506	1,220	1,736	2,126	2,624
Total Appropriation	$2,413	$1,232	$1,753	$2,133	$2,645

Source: U.S. House of Representatives, Consolidated Appropriations Act, 2017, Committee Print of the Committee on Appropriations on H.R. 244/P.L. 115-31 (Legislative Text and Explanatory Statement), https://www.gpo.gov/fdsys/pkg/CPRT-115HPRT25289/pdf/CPRT-115HPRT25289.pdf; U.S. Department of Transportation, *Federal Transit Administration Budget Estimate for FY2018*, pp. CIG 5-6; H.R. 3353 and H.Rept. 115-237; S. 1655 and S.Rept. 115-138.

Notes: NS = Not Specified. FFGA=Full Funding Grant Agreement. Typically, the total funding allocated to the component grant programs is slightly less than the total appropriation to allow for oversight costs (typically 1% of the total program appropriation, though that may include unused funds from previous years). In FY2017, the component funding totaled more than the appropriation due to $118 million in recaptured funding that Congress directed FTA to use for the program.

a. The Administration request included $112 million for two New Starts projects whose status during FY2018 was uncertain at the time the request was submitted: the Caltrain Peninsula Corridor Electrification Project, the FFGA for which was planned to be signed during FY2017, and the Maryland National Capital Purple Line, the FFGA for which was under review due to litigation.

Perhaps due to concerns about whether the Administration would make use of the grant funding provided in excess of the requested amount, both the House and Senate committee bills included language directing DOT to carry out the Capital Investment Program as described in statute; the enacted bill included that language, and added a directive to DOT to obligate $2.253 billion by December 31, 2019 (the amounts appropriated for Capital Investment Grants are available for obligation for four years).

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%.[25] The House-reported bill included a provision prohibiting grant agreements with a federal share greater than 50%. That provision was not included in the Senate-reported bill. The enacted bill followed the House lead in reducing the federal share, with a provision prohibiting New Starts grant agreements with a federal share greater than 51%.

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

[25] There was no similar provision in the FY2017 THUD Appropriations Act or its explanatory statement, but the explanatory statement directed that language in the House and Senate Committee reports, unless contradicted in the final explanatory statement, should apply; the House Committee report included a provision prohibiting FFGAs where the federal share would be greater than 50%, while the Senate Committee report did not include a similar provision.

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 and of project ridership falling short of expectations.

The Hudson Tunnels and Amtrak's Gateway Program

Among the challenges to funding transportation infrastructure is that most federal transportation funding is distributed by mode, and most of the funding is distributed to states by formula. There are grant programs reserved for highways, for public transportation, for rail, and for airport development, but sponsors of projects involving multiple modes may have difficulty amassing significant amounts of federal funding. And while Congress provides some $55 billion annually for surface transportation programs, the vast majority of that funding is automatically divided among the states, making it difficult for a state to accumulate the funding needed for a major project in addition to meeting its other needs. One project that is highlighting this situation is Amtrak's Gateway Program, and specifically the Hudson Tunnel replacement project.

Amtrak's Gateway Program is a set of projects intended to increase capacity and reliability of rail service between northern New Jersey and Manhattan, the most heavily used section of intercity and commuter rail track in the nation. The program would replace bridges, expand track capacity from two to four parallel tracks, and, most critically, add a new rail tunnel under the Hudson River. The existing tunnel, the only link connecting the Northeast Corridor from New Jersey to New York, is over a century old, was flooded with seawater during Hurricane Sandy, and is deteriorating. The estimated cost of the Gateway Program is at least $24 billion, and likely will increase as project planning advances;[26] the estimated cost of just the new Hudson Tunnel is $11.1 billion.[27]

Since the new tunnel would carry both intercity and commuter rail traffic, it is eligible for DOT funding from both the intercity rail program and the public transportation Capital Investment Grants program. But other than the annual grants to keep Amtrak going, relatively little funding has been available in recent for intercity rail projects: the largest rail grant program in FY2017 was funded at $68 million. The Capital Investment Grants program has significantly more funding to award—$2.4 billion in FY2017—but competition for that funding is intense, and the largest grant awarded to a project in the past 10 years was $2.6 billion.[28]

In 2016, under the Obama Administration, media reports indicated an agreement had been reached between DOT, Amtrak, and the states of New Jersey and New York to share the costs of building the new Hudson Tunnel, with one-third to be covered each by DOT/Amtrak, New Jersey/New Jersey Transit, and New York State. The Trump Administration's position on sharing the cost of the new tunnel is unknown. In any case, it would be up to Congress to provide the money.

[26] The $24 billion estimate, announced in 2016, included an estimate of $7.7 billion for the new Hudson Tunnel and repair of the existing tunnel; the June 2017 estimate for the new tunnel and repair of the old tunnel is $13 billion, which could increase the overall program cost to $29 billion. Emma G. Fitzsimmons, "Amtrak Says New York Region's Rail Projects Could Cost Up to $23.9 Billion," *New York Times*, January 20, 2016.

[27] The rehabilitation of the existing tunnel is estimated to cost another $1.8 billion, for a total project cost of $13 billion; cost estimates are in midpoint year-of-construction dollars. Federal Railroad Administration and New Jersey Transit, *Hudson Tunnel Project Draft Environmental Impact Statement and Draft Section 4(f) Evaluation*, June 2017, http://hudsontunnelproject.com/deis.html.

[28] For the Long Island Rail Road's East Side Access project. New Jersey Transit's Access to the Region's Core Project, which would have included new tunnels under the Hudson River, was recommended for a $3.0 billion grant, but the project was subsequently canceled by New Jersey.

The House Appropriations Committee did not mention the Gateway Program or Hudson Tunnel project in its FY2018 THUD committee report, nor did it provide a significant amount of additional funding to any grant program. The committee recommended zeroing out the TIGER Grant Program, which could be one source of money for the Hudson Tunnel project, and cutting funding to the Capital Investment Grants program, another potential source, by $660 million from its FY2017 level. But the committee report noted that its Capital Investment Grants program funding recommendation included $400 million for new projects that meet the criteria of 49 U.S.C. §5309(q): "joint public transportation and intercity passenger rail projects."

The Senate Appropriations Committee did not recommend any specific funding for the Hudson Tunnel replacement. It noted that FRA's Federal-State State of Good Repair grant program could be a source of funding for projects similar to those in the Gateway Program, and encouraged Amtrak to use the $358 million recommended for its Northeast Corridor account to continue its Gateway Project.

The enacted bill did not mention the Gateway Program or Hudson Tunnel project. But it provided Amtrak almost $300 million more than Amtrak requested for its Northeast Corridor, and increased funding for FRA's State of Good Repair program from $25 million in FY2017 to $250 million for FY2018, as well as increased funding for the TIGER grant program and FTA's Capital Investment Grants program.

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 nine 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. A number of other incidents have raised questions about the safety culture of the agency. An investigation that found numerous instances of mismanagement of federal funding 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 Committee, the agency created by the governments of the District of Columbia, Maryland, and Virginia to oversee WMATA safety performance. FTA continues to exercise safety oversight of WMATA, conducting inspections, leading accident investigations, and directing that federal funds received by WMATA are used to improve safety. In February 2017, FTA notified leaders of the three jurisdictions that it would withhold 5% of their FY2017 transit Urbanized Area formula funds until they meet the requirements to create a new State Safety Oversight Program to replace the Tri-State Oversight Committee.[29] The jurisdictions passed legislation establishing a new safety oversight agency soon after, but the agency must be in operation before FTA will release the funding.[30] The National Transportation Safety Board has recommended that oversight of WMATA's rail operations be assigned to FRA, which has a long history of safety

[29] https://www.transit.dot.gov/about/news/fta-withhold-transit-funding-dc-maryland-and-virginia-until-new-state-safety-oversight.

[30] Faiz Siddiqui, "Regional Leaders Aim to Launch Metro Safety Commission by End of Year," *Washington Post*, July 23, 2017, https://www.washingtonpost.com/local/trafficandcommuting/regional-leaders-target-end-of-year-to-launch-metro-safety-commission/2017/07/23/6aa6aabe-6d75-11e7-b9e2-2056e768a7e5_story.html?utm_term=.ac21d1796992.

enforcement, rather than 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 FY2018, the final year of the grant authorization, both the House and Senate Appropriations Committees recommended the full $150 million annual grant for WMATA. The Senate committee report expresses frustration at the slow progress WMATA has made in providing wireless service throughout its system, which Congress mandated in 2008. The Senate committee report also notes that the FY2018 grant is the final installment of the $1.5 billion funding commitment Congress made in 2008, but that WMATA's budget assumes that the annual funding will continue to be provided. The enacted bill provided the $150 million, and made grants to WMATA contingent on improvements to its safety management system.

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