

# AASHTO Roadmap for FAST Act Reauthorization

DRAFT May 9, 2018

## BACKGROUND

The Fixing America's Surface Transportation (FAST) Act enacted in December 2015 represented the first comprehensive, long-term surface transportation legislation since 2005's SAFETEA-LU. The FAST Act continues to fulfill the Constitutional directive that investment in transportation is a core federal responsibility. Its authorization of \$305 billion for federal highway, highway safety, transit, and passenger rail programs from 2016 to 2020 could not have been timelier in supporting our economic growth and maintaining our multimodal transportation infrastructure.

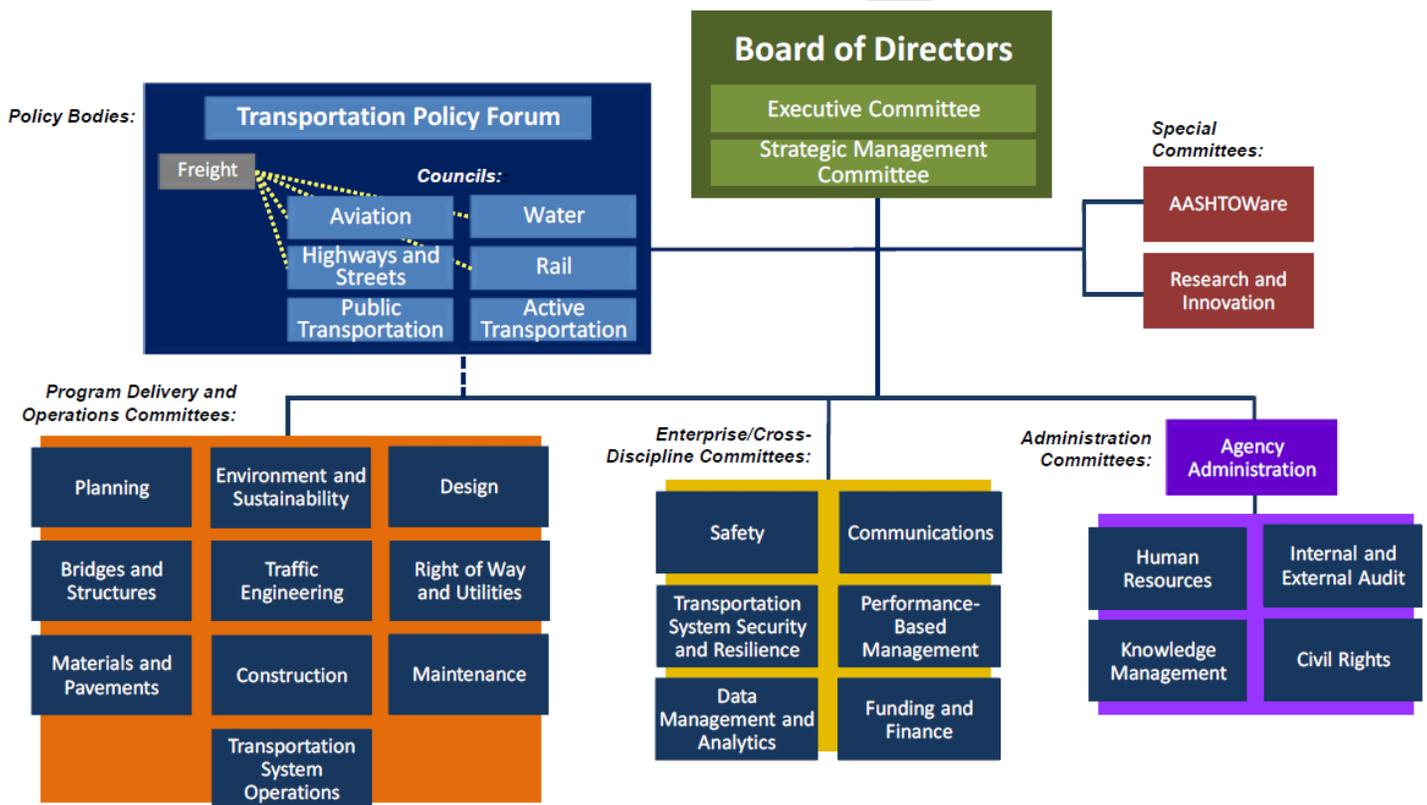
Yet at the same time, the FAST Act provides only a one-time and near-term—though absolutely necessary—reprieve when it comes to federal surface transportation funding. By not enacting a long-term funding source, the Highway Trust Fund (HTF) continues to remain at a crossroads. The HTF has provided stable, reliable, and substantial highway and transit funding for decades since its inception in 1956, but this is no longer the case. Since 2008, the HTF has been sustained through a series of General Fund transfers now amounting to \$140 billion. Without a solution to this crisis, AASHTO estimates that states will see about a 40 percent drop in highway funding from FY 2020 to the following year—\$46.2 billion to \$27.7 billion in FY 2021. In the past, such similar shortfall situations have led to the possibility of a reduction in federal reimbursements to states on existing obligations, leading to serious cash flow problems for states and resulting in project delays. More alarmingly, due to a steeper projected shortfall in the Mass Transit Account, new federal transit obligations are expected to be zeroed out between FY 2021 and FY 2023, excluding any “flex” of highway dollars to transit. Simply put, this is a devastating scenario that we must do all we can to avoid. Beyond maintaining program levels, there has been broad consensus among states that additional Federal funding and investment is warranted.

Beyond funding stability, after decades of adding layers of regulatory requirements on State transportation agencies, some aspects of the Moving Ahead for Progress in the 21st Century Act (MAP-21) and the FAST Act provided helpful policy reforms. Through the proposed infrastructure package and the next surface transportation reauthorization, AASHTO recognizes that we need to continue the momentum of MAP-21 and the FAST Act by making further efficiency gains on transportation policies and project delivery and provide increased flexibility for States. State DOTs strive to maintain responsible stewardship of taxpayer resources and both human and natural environments, all the while improving both mobility and accessibility for all residents and businesses.

## REAUTHORIZING THE FAST ACT

While the FAST Act does not expire until September 30, 2020, state DOTs' funding and policy priorities need to be developed well in advance of the expiration date in order to most effectively influence how the next surface transportation legislation is shaped by Congress and the Trump Administration.

AASHTO's FAST Act reauthorization effort will be led by the Transportation Policy Forum (TPF), which is charged with discussing and recommending policies related to legislation, regulation, and other policy matters to the AASHTO Board of Directors, including the Association's recommended positions on reauthorization of key transportation legislation and on ongoing topical issues of interest to state DOTs.



Based on the new AASHTO committee structure, TPF will rely on Committee-level input for their issue expertise and the AASHTO Strategic Steering Committee (SMC)—a subset of the AASHTO Board—for top-down guidance. TPF will provide oversight of Committees and Modal Councils and serve as the central coordinating body for all involved entities.

## RESOURCES

### AASHTO Policy Book

AASHTO last developed surface transportation policies in October 2013 in anticipation of the federal legislation that would succeed MAP-21. These Board-adopted policy resolutions and supporting white papers from 2013, plus all policy resolutions adopted since then, are compiled in the comprehensive *AASHTO Policy Book* located in the Legislative Resources Portal:

<https://tpf.transportation.org/wp-content/uploads/sites/35/2017/06/2017-09-28-AASHTO-Policy-Resolutions-Since-Oct-2013-1.pdf>

### Inventory of Potential Administrative and Legislative Improvements

In order to inform Congress and USDOT of regulatory reform opportunities as part of the Infrastructure Package discussion, AASHTO has reviewed areas ranging from permitting and environmental review, planning and performance management, assignment and delegation of various federal authorities to states, design and right-of-way approval, transit grant-making oversight, financing program adjustments, and other areas. This *Inventory* can be found here:

<https://tpf.transportation.org/wp-content/uploads/sites/35/2017/06/2017-07-11-AASHTO-Comment-on-USDOT-Policy-Guidance-Regulation-FINAL.pdf>

## ROLES AND PRODUCTS

### White Papers from Committees

Narratives composed of policy issues, up to five pages in length, will be developed. Referring to the 2013 white papers and policy resolutions to fully understand AASHTO's current policy positions will be crucial in developing a new set of recommendations. The modal scope should be identified and prioritized by each involved committee. In addition, TPF will assign issue areas from the aforementioned *Inventory* to relevant committee(s) of jurisdiction. To the extent feasible, each committee is recommended to seek input from their external partners and stakeholders during this step in order to strengthen industry buy-in. The following papers will be developed, involving the following committees:

PAPER #	PAPER NAME	COMMITTEES INVOLVED
1	Connected and Automated Vehicles	<ul style="list-style-type: none"><li>• Planning</li><li>• Safety</li><li>• Transportation System Operations</li></ul>
2	Data Management and Analytics	<ul style="list-style-type: none"><li>• Data Management and Analytics</li></ul>
3	Funding and Finance	<ul style="list-style-type: none"><li>• Funding and Finance</li></ul>
4	Operations	<ul style="list-style-type: none"><li>• Maintenance</li><li>• Traffic Engineering</li><li>• Transportation System Operations</li></ul>
5	Performance-based Management	<ul style="list-style-type: none"><li>• Performance-based Management</li></ul>
6	Planning	<ul style="list-style-type: none"><li>• Planning</li></ul>
7	Project Delivery: Engineering	<ul style="list-style-type: none"><li>• Bridges and Structures</li><li>• Construction</li><li>• Design</li><li>• Materials and Pavements</li><li>• Right of Way and Utilities</li></ul>

<b>8</b>	<b>Project Delivery: Environmental Protection</b>	<ul style="list-style-type: none"> <li>• Construction</li> <li>• Design</li> <li>• Environment and Sustainability</li> <li>• Right of Way and Utilities</li> </ul>
<b>9</b>	<b>Research and Innovation</b>	<ul style="list-style-type: none"> <li>• Research and Innovation</li> </ul>
<b>10</b>	<b>Safety</b>	<ul style="list-style-type: none"> <li>• Safety</li> </ul>
<b>11</b>	<b>Transportation System Security and Resilience</b>	<ul style="list-style-type: none"> <li>• Transportation System Security and Resilience</li> </ul>

White Papers from Modal Councils and the Special Committee on Freight

Five-page narratives composed of one or more policy issues. Provide in-depth explanation of policy issues for their mode and Special Committee based on all relevant Committee white papers. The following papers will be developed:

1. Active Transportation
2. Highways and Streets
3. Freight
4. Public Transportation
5. Passenger Rail

White Paper format

- Each issue area in the white paper should follow this format:
  - Issue title
  - Current law, regulation, or policy (or none, where it doesn't exist)
  - Explanation of why the current policy is not working or why the current policy needs to be maintained or strengthened
  - Recommendation to address the issue including:
    - Opportunities for innovation (e.g., technological, standardizing best practices, etc.)
    - Specific legislative language if readily available
- Example of an issue description:
  - *Allow States to assume some or all of FHWA's responsibilities for approval of right-of-way acquisitions.*
  - Currently, there is no specific authorization in 23 U.S.C. 106 (or elsewhere in Title 23) for States to assume FHWA's responsibilities for authorizing federally funded right-of-way acquisitions. In addition, FHWA's right-of-way regulations state that "as a condition of Federal funding under Title 23, the grantee shall obtain FHWA authorization in writing or electronically before proceeding with any real property acquisition using title 23 funds, including early acquisitions under section 710.501(e) and hardship acquisition and protective buying under section 710.503."
  - This can delay the project delivery process due to the approval needed by FHWA in order to proceed.
  - 23 U.S.C. 108 currently requires FHWA authorization for early acquisitions. Amending this section to provide States with new legislative authority to assume some, or all, of FHWA's responsibilities for approval of right-of-way acquisitions (subject to the same legal protections that currently apply to the right-of-way acquisition process) would address this problem.

### Draft Policy Resolutions

Based on each white paper developed, TPF will synthesize and prioritize each paper topic to a corresponding policy resolution for consideration by the AASHTO Board. In addition, a TPF member or alternate will serve as the primary coordinator for each of the white paper topics outlined above.

### Legislative Outreach Strategy and Related Communication Products

AASHTO's policy recommendations should be effectively communicated to many different audiences in the transportation stakeholder community. In order to maximize visibility of AASHTO's policy positions, TPF will identify strategies for outreach and engagement with stakeholders both internal and external to the Association. This will include development of communication complements in a variety of media formats, intended to support state DOTs and AASHTO staff as part of their going communication with their partners.

## **TIMELINE**

- **May 2018:** Formally kick off the FAST Act reauthorization effort at the TPF meeting; *2018 AASHTO Spring Meeting, Franklin, TN*
- **May 2018 to September 2018:** Committees to develop and approve their five-page white paper.
- **September 2018:** TPF, Modal Councils, and Special Committee on Freight to receive briefings on each white paper; *2018 AASHTO Annual Meeting, Atlanta, GA*
- **September 2018 to February 2019:** Modal Councils and Special Committee on Freight to develop and approve their five-page white paper.
- **February 2019:** TPF to receive briefings on each Modal and Special Committee white paper; *2019 AASHTO Washington Briefing, Washington, DC*
- **February 2019 to May 2019:** TPF to develop draft policy resolutions based on each white paper.
- **May 2019:** TPF to deliberate on draft policy resolutions developed to date; *2019 AASHTO Spring Meeting, Park City, UT*
- **Summer 2019:** TPF to hold an in-person reauthorization meeting to finalize and adopt draft policy resolutions for Board consideration, amend white papers as necessary, and develop legislative outreach strategy; *2019 AASHTO Joint Policy Conference, Location TBD*
- **October 2019:** AASHTO Board of Directors to consider and formally adopt TPF policy resolutions, and amend white papers as necessary; *2019 AASHTO Annual Meeting, St. Louis, MO*
- **October to November 2019:** AASHTO staff to develop a comprehensive suite of reauthorization policy information composed of policy resolutions, white papers, and visual complements intended to serve different audiences in the transportation stakeholder community.
- **November 2019 to September 2020:** AASHTO members and staff to communicate and explain AASHTO's formal policy positions.