



FAST ACT

Fixing America's Surface Transportation Act

REVISED EDITION

IMPLEMENTATION PLAN



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INTRODUCTION

On December 4, 2015, the president signed the Fixing America's Surface Transportation (FAST) Act. The bill authorizes federal surface transportation programs through fiscal year 2020. Those programs focus on highways, freight, transit and for the first time, railroads.

Under the bill, Texas' apportionments for highways are expected to be:

FY 2016: \$3.5 billion

FY 2017: \$3.57 billion

FY 2018: \$3.65 billion

FY 2019: \$3.73 billion

FY 2020: \$3.82 billion

The FAST Act does not change the formulas that direct funding to states for many programs, and Texas continues to be last in rate of return (the amount of dollars paid into the Highway Trust Fund versus the amount of dollars returned to the state).

Below are key items of interest from the FAST Act.

Project Delivery and Environmental Streamlining

The FAST Act contains several changes to the National Environmental Policy Act (NEPA), including improvements to the Planning and Environmental Linkage process (PEL) and requirements for approval checklists. The Act changes the NEPA assignment audit requirements from six audits over four years to one audit per year for the first four years (four audits total).

The Act expands categorical exclusions (CEs) to include multimodal projects and emergency repair projects. The limited federal assistance categorical exclusion is now tied to annual inflation. No conformity process improvements are included.

The bill also creates two new programs:

- A pilot program will allow up to five states to apply state environmental law to environmental reviews instead of NEPA.
- A new Federal Permitting Improvement Steering Council will focus on improving the permitting process for surface, aviation, ports and waterways projects over \$200 million, projects requiring environmental impact statement (EIS) level review, or projects requiring permits from more than one federal agency.

Transportation Infrastructure Finance and Innovation Act

The FAST Act expands eligibility for the Transportation Infrastructure Finance and Innovation Act (TIFIA) program by allowing states to use funds from the National Highway Performance Program (NHPP), Surface Transportation Block Grant Program (STBGP), and Nationally Significant Freight and Highway Projects (NSFHP) to pay the subsidy and administrative costs associated with providing TIFIA credit assistance. The amount of funding allocated to the program has been decreased from \$1 billion a year to the following amounts for each year of the FAST Act:

FY 2016: \$275 million

FY 2017: \$275 million

FY 2018: \$285 million

FY 2019: \$300 million

FY 2020: \$300 million

Title II of the FAST Act makes additional modifications to improve access to TIFIA and expand leveraging opportunities. Specifically, it updates TIFIA to enable better utilization by rural areas and more accessibility for small projects. This is accomplished by using the leveraging ability of TIFIA to support state infrastructure banks and allows the U.S. Department of Transportation (USDOT) to set aside TIFIA funding in order to replace the fees typically collected from TIFIA borrowers to pay for independent financial analysis and outside counsel for rural projects.

The FAST Act also directs USDOT to establish a streamlined application process for use by an eligible applicant under certain circumstances. It also makes transit-oriented development projects eligible for TIFIA loans and reinstates the ability of a state to capitalize their state infrastructure bank with their Federal-Aid Highway Program funds for FY 2016 through FY 2020.

Lastly, the Act codifies an existing USDOT practice of allowing costs related to highway projects delivered by a public-private partnership with an advance construction authorization coupled with the availability payment concession model to be eligible for federal aid reimbursement.

Managed/High Occupancy Vehicle Lanes

States that have been awarded approval to impose tolls on existing portions of the Interstate Highway System as part of a pilot project created in 1998, such as North Carolina, Virginia and Missouri, will be required to complete those projects within one year after the FAST Act takes effect, including submitting a final application, completing the environmental review process and executing a toll agreement with USDOT. A state may request a one-year extension if it is making substantial progress on those tasks. Otherwise a state's "slot" under the pilot program will expire. Similarly, states that receive new, provisional approval under this pilot program will have three years to complete those requirements or request a one-year extension.

Surface Transportation Block Grant Program

The FAST Act increases the amount of Surface Transportation Block Grant Program (STBGP) funding that is distributed to local governments from 50 percent to 55 percent over the life of the bill. The Act provides states and local governments with increased flexibility by replacing the Transportation Alternatives Program with a Transportation Alternatives set-aside in STBGP and allowing 50 percent of certain transportation alternatives funding sub-allocated to local areas to be used on any STBGP-eligible project.

Border Funding

The Act allows states that border Canada or Mexico to designate up to 5 percent of their STBGP funding for border infrastructure projects.

Environmental Streamlining

Although the Moving Ahead for Progress in the 21st Century Act (MAP-21) made wholesale improvements to the NEPA process, the FAST Act builds on those improvements with incremental changes. Texas' previous assumption of NEPA review responsibilities further minimizes the impact of the FAST Act changes in Texas. Most of the streamlining sections require guidance or rulemaking, which Federal Affairs and Environmental Affairs will monitor closely.

TxDOT will continue the environmental streamlining implementation working group established to implement MAP-21 provisions. The working group allows TxDOT, FHWA Texas and USDOT to coordinate and collaborate as the departments establish guidance. This is especially important as TxDOT, acting in FHWA's stead, should be given allowance for input beyond the standard request for comments typically requested as USDOT promulgates rules.

The implementation process will be ongoing through October 1, 2020.

Congestion Mitigation and Air Quality

The Act expands the flexibility for the use of Congestion Mitigation and Air Quality Improvement Program (CMAQ) funds for rural states and for the use of CMAQ funds for port-related freight operations and vehicle-infrastructure communications equipment.

Freight

The FAST Act revises Title 23, Section 167, of the United States Code to create a new formula freight program that will direct between \$1.15 billion (in FY 2016) to \$1.50 billion (in FY 2020) per year of total highway formula apportionments to a new formula freight program. Larger states such as Texas are required to spend their annual freight apportionment on projects on the Primary Highway Freight System, critical rural freight corridors or critical urban freight corridors (all of which will be designated pursuant to provisions in Section 1116 of the bill). States can obligate up to 10 percent of their total freight apportionment for intermodal or freight rail projects.

The FAST Act's planning processes, prioritization of freight networks and corridors, and other provisions expand the emphasis MAP-21 placed on freight planning and movement by creating new funding programs and statutory requirements to access that funding. TxDOT shares this priority and has laid the groundwork with planning, advisory committees and strategic relationships with freight partners throughout our state and region. Texas was one of the first states to form a state freight advisory committee as suggested under MAP-21 and produced the Texas Freight Mobility Plan in January 2016.

TxDOT Freight and International Trade (TPP-FIT) led the department's effort to update the Texas Freight Mobility Plan to ensure it is a FAST Act-compliant document. TxDOT had a statutory deadline of December 4, 2017 to produce a FAST Act-compliant state freight plan. States that fail to meet the deadline are prohibited from using federal formula freight funds until they demonstrate compliance.

In addition to the formula program, USDOT will administer a new competitive grant program titled the Nationally Significant Freight and Highway Projects (NSFHP) program, more commonly known as the INFRA grant program. This discretionary program will have annual calls for projects in each of the five fiscal years of the FAST Act. TxDOT has established an INFRA working group to vet potential projects for submission, similar to our internal Transportation Investment Generating Economic Recovery (TIGER) grant working group. The INFRA grant

program is designed to facilitate the construction of infrastructure projects that are difficult to complete solely using existing federal, state, local and private funds. Among other purposes, program projects will reduce the impact of congestion, generate national and regional economic benefits, and facilitate the movement of freight.

TxDOT will continue the freight implementation working group established to implement MAP-21 provisions. The working group allows TxDOT, FHWA's Texas Division and USDOT to coordinate and collaborate as the departments establish guidance on FAST Act freight provisions.

The implementation process will be ongoing through October 1, 2020.

Interstate 69

The FAST Act provides continuity for oversize and overweight vehicles currently permitted to operate in the future Interstate 69 corridor. The language states that if any segment of U.S. 59, U.S. 77, U.S. 281, U.S. 84, State Highway 44, or another roadway is designated as I-69 in the state of Texas, a vehicle that could operate legally on that segment before the date of the designation may continue to operate on that segment.

Interstate 14

The FAST Act adds the Central Texas Corridor (to the High Priority Corridor System and designates it Interstate 14. According to the Act, the Central Texas Corridor will commence at the logical terminus of Interstate 10, generally following portions of U.S. 190 eastward, passing in the vicinity of Fort Hood, Killeen, Belton, Temple, Bryan, College Station, Huntsville, Livingston, and Woodville, to the logical terminus of State Highway 63 at the Sabine River Bridge at Burrs Crossing.

Transit

The FAST Act introduces an expedited project delivery for the Capital Investment Grants pilot program, which aims to streamline the project delivery process for up to eight grants for new fixed guideway capital projects, core capacity improvement projects or small start projects. This pilot program specifically aims to expedite projects with less than 25 percent federal funding that are supported by public-private partnerships.

The Act also amends the Federal Transit Administration's Buses and Bus Facilities grant program to allow recipients in a specific state to pool their formula funds to allow for the accommodation of larger scale procurements. In addition, it reinstates a competitive grant bus program, which will receive between \$268 million and \$344 million per year. The grant program includes a 10 percent rural set-aside and a cap that not more than 10 percent of all grant amounts can be awarded to a single grantee. It also allows states to submit statewide applications for bus needs, which would allow the state to distribute competitively, awarded funds.

Railroads

The FAST Act includes provisions to improve the nation's rail infrastructure and its intercity passenger rail service while ensuring sound use of taxpayer investments in passenger rail projects. The rail section authorizes a new Consolidated Rail Infrastructure and Safety Improvements grant program to support a broad array of rail projects and activities. It also uses cost-benefit analysis principles for project selection and repeals duplicative grant programs. It authorizes a Federal-State Partnership for a State of Good Repair grant program designed to improve critical rail assets with a backlog of deferred maintenance, such as Northeast Corridor infrastructure. It also authorizes a Restoration and Enhancement Grant program to assist with, on a competitive basis, the initiation or restoration of routes formerly operated by Amtrak.

The FAST Act includes several provisions to improve the safety of highway-rail grade crossings, including grade crossing safety action plans, a private grade crossing study and an evaluation on the use of locomotive horns at grade crossings. In addition, the Act includes requirements to strengthen the safety of passenger rail, including locomotive recording devices, speed limit action plans and locomotive alerters.

The railroad title includes several provisions designed to unlock the Railroad Rehabilitation and Improvement Financing (RRIF) program by streamlining USDOT's approval processes and mirroring programmatic features of the successful TIFIA program. The aim is to make RRIF a more flexible lender and make it easier to develop partnerships that combine RRIF loans with other types of financing, including private financing. It also requires the Secretary to pay back the credit risk premium with interest to a borrower that has repaid its RRIF loan, regardless of whether the loan is or was included in a group. Finally, the Act includes language that modifies general authority to provide direct loans under RRIF to include at least one of the eligible applicants in a joint venture.

Innovation and Intelligent Transportation Grants

The FAST Act includes a first-ever Innovation Title, the Transportation for Tomorrow Act of 2015, which will fund critical research and accelerate the adoption of technologies to address highway and vehicle safety, traffic congestion, mobility, infrastructure condition, and other current and future transportation challenges. There is no mandate for states in this title. However, there are grant opportunities for TxDOT. These include:

- Advanced Transportation and Congestion Management Technologies Deployment (ATCMTD) grants to develop model deployment sites for large-scale installation and operation of advanced transportation technologies to improve safety, efficiency, system performance and infrastructure return on investment. Between five and 10 grants will be awarded annually.
- Surface Transportation System Funding Alternatives grants to states to demonstrate user-based alternative revenue mechanisms to maintain the long-term solvency of the HTF.

Among other provisions, this title also includes \$100 million for intelligent transportation systems (ITS) research, with an expanded role to enhance the national freight system and assist in developing cybersecurity standards to help prevent hacking, spoofing and disruption of connected and automated transportation vehicles. This title has expanded funding eligibility for ITS projects in various USDOT accounts, funding for University Transportation Centers (UTC) programs, and a future interstate study.

The process for implementation will require USDOT to meet various deadlines over the five-year course of the bill. No deadlines are enumerated for TxDOT.

IMPLEMENTING THE FAST ACT

With the passage of the FAST Act, the real work begins for TxDOT. Divisions and districts have identified opportunities within the legislation to improve project delivery and maximize transportation dollars. TxDOT's Federal Affairs Section has partnered with FHWA Texas to jointly and collaboratively analyze and implement the FAST Act. In order to effectively execute the implementation of the provisions set forth in the FAST Act, Federal Affairs and FHWA Texas have created three working groups which meet periodically to track progress toward these ends. The joint working groups are as follows:

- Freight Planning and Partnerships
- Environmental Streamlining
- Innovation and Intelligent Transportation Grants

ABOUT THIS DOCUMENT

The FAST Act Implementation Plan summarizes TxDOT's action plan for implementing the transportation provisions of the FAST Act. Each section has been completed by the applicable division, or divisions, to reflect the analysis and consensus developed by department staff with regard to the actions required by the passage of the FAST Act.

This document addresses major provisions of the FAST Act. Sections related to definitions, minor technical corrections, short titles, or issues not within the purview of TxDOT have been omitted from this report.

This document has been published in advance of some of the federal agencies' rule development and promulgation process. Hence, upon receipt of clarifying information from USDOT and its administrative agencies, TxDOT divisions and districts may be required to edit the current plans and strategies developed for implementation of the FAST Act. This document is subject to change and revision.

Multiple documents were consulted in the analysis of the FAST Act, including the FAST Act conference report. Sincere gratitude is also expressed to Eno Center for Transportation, which was instrumental in the analysis and creation of section summary information for the *FAST Act Implementation Plan*.

Requests for changes and revisions should be directed to Federal Affairs at (512) 463-6086.

The page numbers within this document refer to the enrolled version of the FAST Act, H.R. 22, final as passed by both the U.S. House of Representatives and the U.S. Senate. The bill can be located on the **Library of Congress** website at: <https://www.congress.gov/114/bills/hr22/BILLS-114hr22enr.pdf>

Revised and updated edition as of April 2018.

DIVISION A – SURFACE TRANSPORTATION

TITLE I – FEDERAL-AID HIGHWAYS

Subtitle A – Authorizations and Programs

■ AUTHORIZATION OF APPROPRIATIONS

TxDOT Point of Contact: FIN, CIV

FAST Act Section and Page Number: 1101, Page 11

Summary of Section: This section creates contract authority for the Federal Highway Administration (FHWA). The apportionment level for FY 2016 is approximately 6 percent higher than in FY 2014, the final year of MAP-21, and increases approximately 2 percent per year over the life of the bill. There is also a minimum percentage (10 percent) of small business/disadvantaged business enterprise (DBE) participation for most of the programs in the FAST Act.

Impact to TxDOT: FHWA assigns new apportionment codes to the programs with new highway legislation and with extensions of existing legislation. FIN incorporates the new codes into DCIS and the EDS system used to submit project information to FHWA. FIN will continue to use the older apportionment codes until balances are depleted and then use the ones provided in the FAST Act.

Federal Actions Required: The Secretary will set requirements for reporting information concerning DBE awards, commitments and achievements and any other information deemed appropriate.

State Actions Required: States will provide necessary information to the Secretary pertaining to small business concerns and DBE awards.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ OBLIGATION CEILING

TxDOT Point of Contact: FIN

FAST Act Section and Page Number: 1102, Page 15

Summary of Section: This section sets the obligation limit for FY 2016 approximately 6 percent higher than that of FY 2014, the final year of MAP-21 and increases approximately 2 percent annually through FY 2020.

Impact to TxDOT: The higher levels mean that more projects or higher amounts on projects will be obligated than in previous years.

Federal Actions Required: The Secretary carries out distribution of obligation authority for each of fiscal years 2016 through 2020. In the event of unused obligation authority (OA), the Secretary will redistribute OA funds left unobligated by August 1 of each fiscal year.

State Actions Required: TxDOT will ensure that all OA is used for projects.

Relevant Deadlines for TxDOT and Related Agencies: All OA provided in a fiscal year must be obligated to projects before FHWA closes their system in late September annually.

Additional Information: The Financial Management Division's Letting Management section ensures that TxDOT utilizes 100 percent of its obligation authority by actively managing federal obligations on eligible projects. Letting Management also has an August redistribution process, working with districts and the Transportation Planning and Programming Division to identify additional ready-to-let, federally eligible projects to support TxDOT's redistribution request.

■ DEFINITIONS

TxDOT Point of Contact: FIN

FAST Act Section and Page Number: 1103, Page 17

Summary of Section: The Act amends Title 23, Section 101(a) of the United States Code to repeal the definition of "transportation alternatives" and adds a new definition of "national highway freight network."

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: No action is required of USDOT.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ APPORTIONMENT

TxDOT Point of Contact: FIN, TPP-FIT

FAST Act Section and Page Number: 1104, Page 18

Summary of Section: This section lays out the formula for funding provided to states. It also introduces a new surface transportation block grant program (STBGP), which replaces MAP-21's Surface Transportation Program (STP) to provide flexible funding. The Act adds a new National Highway Freight Program (NHFP). States will receive an amount equal to at least 95 percent of their estimated tax payments into the Highway Trust Fund.

Impact to TxDOT: The agency is required to have a FAST Act-compliant Freight Plan and the plan must identify freight projects that meet specific criteria as outlined in the NHFP. TPP-FIT works with FIN to identify projects that will be submitted each fiscal year.

Federal Actions Required: Distribution of funds to states as outlined.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: The agency adheres to federal submission project letting deadlines each fiscal year.

Additional Information: TPP-FIT should work with TxDOT districts and divisions on project descriptions to better articulate freight needs across the state and to identify a portfolio of projects that meet the criteria to qualify for funds under the FAST Act.

■ **NATIONALLY SIGNIFICANT FREIGHT AND HIGHWAY PROJECTS**

TxDOT Point of Contact: TPP, TPP-FIT, RRD, MRD

FAST Act Section and Page Number: 1105, Page 21

Summary of Section: This section creates a new discretionary grant program for the Secretary of Transportation to select projects of “national or regional significance.” Applicants can be states, a metropolitan planning organization (MPO) that serves an urbanized area, municipal governments, special purpose districts, federal land agencies, Native American tribes, or a combination. This new Section 117 provides funding for highway, bridge, rail-grade crossing, intermodal and freight rail projects costing more than \$100 million or 30 percent of the state’s annual federal highway apportionment.

At least 25 percent of funds must be spent in rural areas. Minimum federal grant size is \$25 million, but 10 percent of the funding will be reserved for smaller projects below the \$100 million or 30 percent threshold. The minimum grant size for those smaller projects is \$5 million.

Impact to TxDOT: Public ports, land ports of entry and TxDOT would be eligible to apply for these grants. Seaports that would be able to apply for projects included on the National Highway Freight Network or that add interstate capacity would likely be the Ports of Beaumont, Houston and Corpus Christi. Other Texas seaports are not near projects included on the Highway Freight Network nor are they near a beneficial interstate. Ports may be able to apply for “inside the gate” surface transportation infrastructure, but the biggest opportunities for ports would likely be “freight intermodal” projects. The majority of these projects would likely be eligible as “small projects” due to the minimum cost thresholds for the grant. It is beneficial that project development costs, such as planning and feasibility analysis, are included as eligible costs.

Federal Actions Required: USDOT may issue Notices of Funding Opportunity (NOFO).

State Actions Required: RRD may submit grant applications when NOFOs are issued. TPP-FIT may submit grant applications when NOFOs are issued.

Relevant Deadlines for TxDOT and Related Agencies: TxDOT will develop a list of potential projects prior to an issuance of NOFO.

Additional Information: TxDOT may apply for funds for the rehabilitation of the South Orient Rail Line under this program. Projects could be submitted for any desired amount by requesting funds for the entire line (\$140 million or more) or by smaller segments of independent utility (\$10 million to \$100 million). TPP-FIT may submit projects identified in the Texas Freight Mobility Plan to advance its implementation. Projects should address freight bottlenecks, congestion, and connectivity. The department has submitted applications for the first call of projects for the program.

■ **NATIONAL HIGHWAY PERFORMANCE PROGRAM**

TxDOT Point of Contact: TPP

FAST Act Section and Page Number: 1106, Page 26

Summary of Section: This section amends Title 23, Section 119, of the United States Code to permit states to utilize National Highway Performance Program (NHPP) funds to pay a TIFIA subsidy and other administrative costs, to be used for bridges off the National Highway System and to address critical infrastructure needs.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: No action is required of USDOT.

State Actions Required: Unless the state decides to use NHPP funds to pay for a TIFIA subsidy, no action is expressly required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ EMERGENCY RELIEF FOR FEDERALLY OWNED ROADS

TxDOT Point of Contact: FIN, MNT, CST

FAST Act Section and Page Number: 1107, Page 26

Summary of Section: This section amends Title 23, Section 125, of the United States Code to make federal roads on public lands that are open to public travel or those located on tribal transportation facilities eligible for emergency relief reconstruction.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: No action is required of USDOT.

State Actions Required: No new actions would be required. A standard emergency relief (ER) policy/procedure is already in place.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ RAILWAY-HIGHWAY GRADE CROSSINGS

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 1108, Page 27

Summary of Section: This section increases the annual amount of set-aside for the grade crossing program from the current \$220 million per year to become \$225 million in FY 2016. The amount is gradually increased in \$5 million per year increments reaching a total of \$245 million in FY 2020. At least one half of the total set-aside funds shall be available for the installation of safety devices at crossings.

Impact to TxDOT: The change will provide increased revenue to the Rail-Highway Grade Crossing Program.

Federal Actions Required: The federal government will provide additional funding for the Rail-Highway Grade Crossing Program.

State Actions Required: States may apply funds to additional projects.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: The FAST Act provides an additional \$5 million per year to the program for the next five years.

■ SURFACE TRANSPORTATION BLOCK GRANT PROGRAM

TxDOT Point of Contact: TPP, CST, DES, BRG, MNT

FAST Act Section and Page Number: 1109, Page 27

Summary of Section: This section expands the Surface Transportation Program into a Surface Transportation Block Grant Program (STBGP). The legislation increases the amount of total funding that is sub-allocated to metropolitan areas on the basis of population from the current 50 percent to 55 percent over five years. This will increase flexibility and enhance state and local control over transportation decisions.

The FAST Act repeals the sections of Title 23 of the United States Code that authorize the transportation alternatives program (TAP) (which received \$820 million in FY 2015). The FAST Act also sets aside \$835 million per year in 2016 and 2017 and \$850 million per year in 2018, 2019 and 2020 from the STBGP and directs that the money “may be obligated for projects or activities described in [the TAP provisions of Title 23 of the United States Code] as such provisions were in effect on the day before the enactment of the FAST Act.” All transportation alternatives, existing under current law, are grandfathered for that annual set-aside.

Impact to TxDOT: TxDOT has not defined truck parking facilities or subsequently related design guidelines. This component would need to be developed. “Truck Parking Facilities” is listed as one of the categories of eligible projects. TxDOT Design operations does not anticipate any impact by this section. The proposed changes to the Surface Transportation Program of MAP-21 (23 U.S.C. 133) do not appear to impact the on-system or off-system Texas Highway Bridge Programs and other Category 6 programs, or bridge and tunnel inspection.

Federal Actions Required: No action is required of USDOT.

State Actions Required: No actions should be required.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ HIGHWAY USE TAX EVASION PROJECTS

TxDOT Point of Contact: FIN

FAST Act Section and Page Number: 1110, Page 33

Summary of Section: Amends Title 23, Section 143(b), of the United States Code to reauthorize Highway Use

Tax Evasion (HUTE) projects at \$4 million per year, 2016 through 2020.

Impact to TxDOT: Funds from this program are used to enhance motor fuel tax enforcement, supplement motor fuel tax examinations and to develop automated data processing tools to monitor motor fuel production and sales. One project in FHWA's System is a grant awarded to the office of the Texas Comptroller so coordination will be required through their office. This project may ensure more accurate reporting of annual motor fuel taxes in Texas.

Federal Actions Required: No action is required of FHWA.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ BUNDLING OF BRIDGE PROJECTS

TxDOT Point of Contact: TPP, BRG

FAST Act Section and Page Number: 1111, Page 33

Summary of Section: Title 23, Section 144, of the United States Code is amended to allow and encourage states to combine multiple similar bridge projects into one project that can be awarded as a single contract, either as a package of projects or statewide bridge improvement program. This proposed change in the legislation encourages, but does not require, multiple bridges to be bundled into a single project.

Impact to TxDOT: TxDOT currently bundles projects when determined to be advantageous so this legislation would not affect how TxDOT lets bridge projects to construction. This provision will decrease the burden of accounting for similar projects.

Federal Actions Required: No action is required of USDOT.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: TxDOT will need to include these changes in the 2017 STIP and UTP.

Additional Information: None

■ CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES

TxDOT Point of Contact: Corpus Christi and Houston Divisions

FAST Act Section and Page Number: 1112, Page 34

Summary of Section: This section amends Title 23, Section 147, of the United States Code to change the ferry boat formula factors and increases total funding of the program by \$13 million per year (from \$67 million to \$80 million). From FY 2016 to 2020, \$80 million has been authorized to be appropriated from the Highway

Trust Fund.

Impact to TxDOT: This section is anticipated to have a positive impact as TxDOT applies for and routinely receives federal grants for the construction of new vessels. Our 10-year vessel replacement plan includes phasing out the six 20-car passenger ferry fleet which will be approaching their 30-year life span and replacing the fleet with new more efficient 28-car passenger ferries.

Federal Actions Required: No action is required of USDOT.

State Actions Required: No action is expressly required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: TxDOT will observe the deadlines for grant applications when provided. This section does not enumerate specific deadlines for state DOTs.

Additional Information: TxDOT should apply for funding for the construction of the new 28-car ferries under this program. Project(s) could be submitted for an 80/20 amount by requesting funding as in previous years under the federal grants program.

■ HIGHWAY SAFETY IMPROVEMENT PROGRAM

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 1113, Page 36

Summary of Section: The section places more emphasis on pedestrian safety. vehicle-to-vehicle (V2V), pedestrian hybrid beacons, median separation and other physical infrastructure safety projects are eligible for Highway Safety Improvement Program (HSIP) funding. This section also enables states to opt out of collecting data on roads that have reverted to gravel and encourages the review of best practices for Commercial Motor Vehicle (CMV) safety.

Impact to TxDOT: This change may increase the number of fields in the Crash Records Information System (CRIS).

Federal Actions Required: Within one year of enactment, the Secretary will submit a report of the findings of the CMV Safety Review. This report will be presented to the Senate Committee on Environment and Public Works and the House Transportation and Infrastructure Committee.

State Actions Required: States may consult with the Secretary in their efforts to conduct the safety review.

Relevant Deadlines for TxDOT and Related Agencies: TxDOT may be called upon to assist with the safety review conducted by the Secretary within one year of enactment. The Secretary will present the collective findings to the Senate and House committees previously stipulated.

Additional Information: None

■ CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM

TxDOT Point of Contact: TPP, ENV

FAST Act Section and Page Number: 1114, Page 37

Summary of Section: This section continues the CMAQ Program with funding at levels that were available the day before the enactment of MAP-21 and makes numerous minor clarifications. It carries forward MAP-21 provisions, including a Particulate Matter (PM) 2.5 set-aside for states with PM2.5 nonattainment or maintenance areas. Texas currently has no PM2.5 nonattainment/maintenance areas.

This section also adds provisions to allow funding for the installation of vehicle-to-infrastructure communication equipment; provides exemptions for low population density states; allows for the obligation of funds to reduce emissions from port-related landside nonroad or on-road equipment that is within PM2.5 nonattainment or maintenance areas; ties performance targets to air “quality” and “congestion”; and allows the obligation of funds for vehicle-to-infrastructure communication equipment.

Impact to TxDOT: This section would not require changes to environmental operations. Funds can be used not only for attainment of ambient air quality standards, but also to maintain standards in attainment areas. TxDOT should receive the same share of formula funds as applied in MAP-21.

Federal Actions Required: No action is required of USDOT or EPA.

State Actions Required: TxDOT will continue the existing CMAQ responsibilities and develop and report performance targets in collaboration with impacted MPOs. TxDOT will need to work with MPOs to make policy decisions regarding whether or not to expand the use of funds for maintenance of air quality (AQ) in attainment areas.

Relevant Deadlines for TxDOT and Related Agencies: If the use of funds is expanded, TxDOT will need to work with GCD to determine if the Texas Administrative Code needs to be amended.

Additional Information: Consider additional areas that may be designated for ozone NAAQs October 1, 2017 (currently San Antonio and El Paso would be potential new nonattainment areas (NAs), existing areas are El Paso (CO maintenance and PM10 NA), DFW (ozone NA), Greater Houston (ozone NA).

■ NATIONAL HIGHWAY FREIGHT PROGRAM

TxDOT Point of Contact: TPP, TPP-FIT, RRD, MRD

FAST Act Section and Page Number: 1116, Page 38

Summary of Section: This section rewrites Title 23, Section 167, of the United States Code to create a new formula freight program that will direct between \$1.15 billion (in FY 2016) to \$1.5 billion (in FY 2020) per year of total highway formula apportionments to a new formula freight program. States should establish a freight advisory committee and develop a state freight investment plan before obligating provided funds. National and state networks are to be updated every five years. States will be able to obligate up to ten percent of their program funds for improvements to intermodal or freight rail projects.

Impact to TxDOT: The Ports of Beaumont, Houston and Corpus Christi may benefit from projects on the Primary Highway Freight Network. Other ports would benefit from the urban and rural freight corridor designations, in addition to the 10 percent set aside. A list of eligible projects has been included. This section of the bill is primarily focused on highways and connectors with little or no impact on RRD.

Federal Actions Required: No action is required of USDOT.

State Actions Required: TxDOT has updated the Texas Freight Mobility Plan to be eligible for funding.

Relevant Deadlines for TxDOT and Related Agencies: The state must have a FAST Act compliant freight plan by December 2017. TPP-FIT is the point of contact responsible for ensuring this plan is updated in a timely manner.

Additional Information: MRD and RRD will provide assistance to identify potential intermodal and rail projects. TPP-FIT updated the Texas Freight Mobility Plan (TFMP) in 2017 in order to be in full compliance with USDOT requirements. The TFMP was approved by the Texas Transportation Commission on 11/16/17. The document was submitted to FHWA for comments on 11/17/17. TxDOT is in the process of integrating all comments as outlined by FHWA and will resubmit to FHWA on 1/29/18 for final approval.

■ STATE FLEXIBILITY FOR NATIONAL HIGHWAY SYSTEM MODIFICATIONS

TxDOT Point of Contact: TPP

FAST Act Section and Page Number: 1122, Page 57

Summary of Section: This section directs USDOT, within 90 days of enactment, to issue guidance to states on the reclassification of roads recently added to the National Highway System (NHS) per MAP-21 and to identify any needed functional classification changes to rural and urban principal arterials.

Impact to TxDOT: TxDOT is already working with FHWA to classify roadways. The bill language calls for the review of roads classified as principal arterials.

Federal Actions Required: Within one year of enactment and then annually thereafter, the USDOT will provide a report to Congress of all modifications and reclassifications of National Highway System roads.

State Actions Required: TxDOT will work with division offices of FHWA in the review and reclassification process. TxDOT is already working with FHWA to classify roadways. The bill language calls for the review of roads classified as principal arterials.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

SUBTITLE B—PLANNING AND PERFORMANCE MANAGEMENT

■ METROPOLITAN TRANSPORTATION PLANNING

TxDOT Point of Contact: TPP

FAST Act Section and Page Number: 1201, Page 60

Summary of Section: This section amends Title 23, Section 134, of the United States Code and expands the scope of the planning process to include addressing resiliency and reliability as well as enhancing travel and tourism of the transportation system by Metropolitan Planning Organizations (MPOs). This section specifically directs transportation planners to include considerations of resilience and responsiveness to

natural disasters; emphasize intermodal transfer facilities and the accessibility effects of intercity bus services and facilities; public ports; travel and tourism. The section also clarifies that “private transportation” should include consideration of intercity bus operators and employer-based commuting programs. An MPO serving a transportation management area may develop a congestion management plan that considers regional goals to reduce vehicle miles traveled (VMT) during peak times, improved job access to low income areas, and other projects that can reduce congestion.

Impact to TxDOT: FHWA issued the Final Rule on Metropolitan Planning in July 2016. Staff will review Final Rule to determine any need for action.

Federal Actions Required: FHWA is responsible for issuing a Final Rule on Metropolitan Planning.

State Actions Required: TxDOT is currently reviewing FHWA's Final Rule on MPOs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ STATEWIDE AND NONMETROPOLITAN TRANSPORTATION PLANNING

TxDOT Point of Contact: TPP, PTN

FAST Act Section and Page Number: 1202, Page 63

Summary of Section: Title 23, Section 135, of the United States Code is amended to direct transportation planners to focus on resiliency and responsiveness to natural disasters; to emphasize intermodal transfer facilities and the accessibility effects of intercity bus services and facilities; public ports; travel and tourism. The section also clarifies that “private transportation” should include consideration of intercity bus operators and employer-based commuting programs. This section adds “public ports” to eligible freight facilities. Also expands scope of planning process to address resiliency and reliability.

Impact to TxDOT: FHWA issued the Final Rule on Statewide Planning in 2016. TxDOT staff is reviewing the Final Review to determine the need for action. The referenced rule change will have a minimal impact on TxDOT and MPO operations. PTN will provide a contact list of Intercity Bus operator addresses to TPP for inclusion in statewide and metropolitan planning public involvement processes.

Federal Actions Required: No action is required of FHWA.

State Actions Required: TxDOT staff is reviewing the Final Rule to determine the need for action.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: PTN needs to be consulted regarding expanded definition of “private transportation.”

SUBTITLE C—ACCELERATION OF PROJECT DELIVERY

■ SATISFACTION OF REQUIREMENTS FOR CERTAIN HISTORIC SITES

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 1301, Page 64

Summary of Section: This section aligns various requirements relating to certain historic sites. It requires the Secretary to align, to the maximum extent practicable, with requirements of the National Environmental Policy Act of 1969 (NEPA). It requires the establishment of procedures to satisfy the aforementioned requirements no later than 90 days after enactment of legislation, coordinated with the Secretary of the Interior and the Executive Director of the Advisory Council on Historic Preservation. This section includes language about the analysis required by NEPA on the use of historic sites. If the analysis returns that no alternative exists to the use of a historic site, specific parties must be notified by the Secretary. If the notified parties each provide a concurrence, no further analysis will be required. Notice of determination, in addition to each relevant concurrence, shall be included in the record of decision of finding no significant impact of the Secretary and be posted on the appropriate federal website no later than three days after receipt by the Secretary. It also outlines requirements for aligning historical reviews among the Secretary and concurring parties.

Impact to TxDOT: Theoretically, this approach may result in a streamlined environmental review process for highly complex projects such as the Trinity River Parkway in Dallas (DAL) or the Harbor Bridge project in Corpus Christi (CRP). In reality, TxDOT has already implemented streamlining agreements with the Texas State Historical Preservation Office (SHPO) and various tribal governments that achieve similar goals. It is probable that TxDOT will be asked to report on our procedures during the referenced analysis process. No long term gain or burden is anticipated as a result of this provision. This regulatory framework may also facilitate resolution of programmatic consultation between TxDOT and permitting federal agencies such as the U.S. Army Corps of Engineers (USACE), which would benefit project delivery.

Federal Actions Required: Regulations will be developed.

State Actions Required: TxDOT will comment on proposed regulations once released.

Relevant Deadlines for TxDOT and Related Agencies: Deadlines are unknown until FHWA establishes a comment period.

Additional Information: None

■ CLARIFICATION OF TRANSPORTATION ENVIRONMENTAL AUTHORITIES

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 1302, Page 66

Summary of Section: This section includes minor housekeeping provisions to update regulatory references. It amends Title 23, Section 138, of the United States Code as amended by Section 1301 and adds a paragraph regarding “References to past transportation environmental authorities.” It defines Section 4(f) and Section 106 requirements and amends Title 49, Section 303, of the United States Code as amended by Section 1301. This section adds a paragraph “References to past transportation environmental authorities.” This section

defines Section 4(f) and Section 106 requirements.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: Regulations will be developed.

State Actions Required: TxDOT may review and comment on proposed regulations if necessary.

Relevant Deadlines for TxDOT and Related Agencies: Deadlines are unknown until FHWA establishes a comment period.

Additional Information: None

■ TREATMENT OF CERTAIN BRIDGES UNDER PRESERVATION REQUIREMENTS

TxDOT Point of Contact: ENV, BRG

FAST Act Section and Page Number: 1303, Page 67

Summary of Section: This section amends Title 23, Section 138, of the United States Code as amended by Section 1302 and extends an exemption relating to non-significant postwar bridges. It classifies a common post-1945 concrete steel bridge or culvert as exempt from individual review under Title 54, Section 306108, of the United States Code.

The provisions of the original program comment exempting non-significant postwar bridges from Section 106 provisions did not include a similar dispensation for Section 4(f). The FAST Act expands the exemption such that these bridges are treated similarly under Section 106 and Section 4(f).

Impact to TxDOT: In tandem with a programmatic agreement (PA) developed in consultation with the Texas Historical Commission and the Advisory Council on Historic Preservation governing the treatment of significant postwar bridges, this provision will greatly streamline the environmental process for projects focused on such resources.

Federal Actions Required: Federal regulations will be developed.

State Actions Required: TxDOT may comment on proposed regulations and develop responsive guidelines. TxDOT executed the PA governing the treatment of significant postwar bridges in February 2017.

Relevant Deadlines for TxDOT and Related Agencies: FRA issued draft regulations for comments in the Fall of 2017. TxDOT review of the draft regulations indicated potential streamlining of the environmental review process may have limited improvements for our procedures. Final rules have not been promulgated.

Additional Information: BRG defers to ENV on implementation and further analysis.

■ EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISION-MAKING

TxDOT Point of Contact: ENV, TPP

FAST Act Section and Page Number: 1304, Page 67

Summary of Section: This section includes a wide variety of provisions with varying impacts, which are addressed by subsection below.

Section 1304(a) redefines the term “multimodal project” and “projects” and adds consideration of federal funding or financing identified by the project sponsor.

Section 1304(b) provides additional detail to the requirements relating to programmatic environmental reviews and appears to emphasize the use of them. This section removes the rulemaking required for this provision and removes other conditions. The modifications would seem to ease the use of programmatic approaches.

Section 1304(c) adds an explicit responsibility for the lead agency to consider and respond to comments from participating agencies on matters within the agency’s expertise or jurisdiction. Although this would be a new provision in the law, this is already common practice in the environmental review process.

Section 1304(d) adds a deadline for the identification of participating agencies; and adds a requirement that all federal permits and reviews for a project rely on a single environmental document to the maximum extent feasible, and identifies participating agency responsibilities.

Section 1304(e) adds requirements and deadlines relating to project initiation. Prior law requires notification of project initiation, and the new law now requires an application process. FHWA (or, in our case, TxDOT) has to respond within 45 days with a determination about initiating the environmental review process, including a timeline and expected publication date. This section also requires FHWA to designate a lead agency within 45 days of a request by a project sponsor. It requires a project’s lead agency to develop, as appropriate, an environmental checklist to help project sponsors identify potential natural, cultural, and historic resources in project area.

Impact to TxDOT: Section 1304(e) provides new requirements which will need to be incorporated into TxDOT procedures and tracked, once specifics are identified in implementing regulations and/or guidance. The requirement to develop an environmental checklist at project initiation duplicates the scoping process required under state law and introduces opportunity for procedural error. The addition of an application step as a requirement before starting the NEPA process will add time to the overall process.

Sec. 1304(f) reduces duplicative identification and review of alternatives for the project. This is similar to the PEL statute, except that it allows a federal environmental impact statement (EIS) to rely on the rejection of an alternative as documented in a state document. The list of conditions for relying on rejection of an alternative from the planning process is slightly shorter than the list of conditions in the broad PEL statute, although it is still lengthy (seven conditions). The addition of these requirements for eliminating alternatives could create controversy and confusion, and will likely add time to the overall process.

Sec. 1304(g) outlines additional requirements which reduce TxDOT’s flexibility to determine when a schedule is beneficial or appropriate. TxDOT currently develops project schedules as part of its scoping process under state law, so development of schedules itself should not represent a substantial increase in workload. If coordination plans are required for all Environmental Assessments (EAs), it could represent a substantial increase in workload. Depending upon the details of the implementing regulations, this section may result in

increased workload for EAs and changes in how project schedules are described. Based on current practice for EISs, it is also possible that the schedules may need to be made publicly available, which would require additional resources for posting and updating schedules on the internet for a potentially substantial number of projects.

Sec. 1304(j) Depending on how this provision is implemented by USDOT, it could amount to a high level of reporting and maintenance that duplicates some aspects of reporting required under state law. States with delegated authority are required to provide this data to the Secretary. Some of this data may be hard to acquire from municipal governments. Additional resources are likely to be needed to manage and facilitate reporting, which may include FTEs or additional IT resources if there is a possibility of automating reporting and integrating TxDOT systems with FHWA.

Federal Actions Required: USDOT must develop regulations as necessary.

State Actions Required: TxDOT may comment on the proposed regulations and develop responsive guidelines.

Relevant Deadlines for TxDOT and Related Agencies: Deadlines to provide comments are unknown until FHWA establishes a comment period. New deadlines include 45 days to initiate a project and 90 days to develop a project schedule after publication of the Notice of Intent.

Additional Information: None

■ INTEGRATION OF PLANNING AND ENVIRONMENTAL REVIEW

TxDOT Point of Contact: ENV, TPP

FAST Act Section and Page Number: 1305, Page 75

Summary of Section: This section has been rewritten for clarity and provides additional detail on planning decisions that may be used in the environmental process. This section defines terms such as: environmental review process, lead agency, planning product, project, project sponsor, and relevant agency. It allows agencies meeting specific requirements to adopt or incorporate by reference and use a planning product in proceedings relating to any class of action in the environmental review process of the project. This section outlines the timing for when determination can be made by a relevant agency and planning decisions and analyses from planning products that the relevant agency in the environmental review process may adopt or incorporate by reference. It also outlines the conditions in which a relevant agency in the environmental review process may adopt or incorporate by reference a planning product which may be incorporated directly into an environmental review process document, other environmental document, or may be utilized by other federal agencies in carrying out reviews of the project. Rules of construction are also mentioned.

Impact to TxDOT: The most substantive change is that the section now permits cooperating agencies to rely on planning products in their environmental review or permitting processes. This has the potential to reduce duplicative analyses and reviews, to the extent agencies choose to rely on planning products.

Federal Actions Required: USDOT will develop regulations.

State Actions Required: TxDOT may comment on proposed regulations and develop responsive guidelines.

Relevant Deadlines for TxDOT and Related Agencies: Deadlines are unknown until FHWA establishes comment period.

Additional Information: None

■ DEVELOPMENT OF PROGRAMMATIC MITIGATION PLANS

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 1306, Page 78

Summary of Section: This section strikes “may use” and replaces it with “shall give substantial weight to” with regard to the recommendations in a programmatic mitigation plan. It also adds language including other federal environmental law. This section requires agencies to give substantial weight to programmatic mitigation plans when they exist, rather than merely permitting their use.

Impact to TxDOT: Programmatic mitigation plans can be highly beneficial to efficient project delivery, but development requires a substantial investment of resources. Increasing their importance also increases the value of the investment. While TxDOT has already implemented aspects of programmatic mitigation into its Section 106 regulatory compliance, this shift in emphasis on the policy would support further explorations with the Texas State Historical Preservation Office (SHPO) and result in expedited reviews and greater public benefit. The terms of the update suggest a more pronounced opportunity for TxDOT to request additional federal funding to support such efforts, rather than relying exclusively on state funds to implement in the future.

Federal Actions Required: USDOT will develop regulations.

State Actions Required: TxDOT may comment on proposed regulations and develop responsive guidelines. When acting as a federal agency, at the time of review/permitting/approval, if a programmatic mitigation plan exists, we must now give it substantial weight in our review.

Relevant Deadlines for TxDOT and Related Agencies: Deadlines are unknown until FHWA establishes a comment period.

Additional Information: None

■ TECHNICAL ASSISTANCE FOR STATES

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 1307, Page 79

Summary of Section: This section makes changes to the Surface Transportation Project Delivery Program, under which TxDOT has been assigned FHWA responsibilities. Under previous law, FHWA could terminate the participation of any state in the program if it gives a State notification of a determination of noncompliance and the state did not take satisfactory corrective action within 30 days. This section changes the timeframe to a 120-day period to take satisfactory corrective action, and provides that, upon request by a governor of a state, FHWA must provide a detailed description of each responsibility in need of corrective action.

Impact to TxDOT: A minimal impact is anticipated for TxDOT by this provision.

Federal Actions Required: FHWA may provide training to states upon request.

State Actions Required: State action is only required when seeking assistance from the Secretary.

Relevant Deadlines for TxDOT and Related Agencies: The Secretary can terminate an assignment if corrective actions are not taken within 120 days for determination of noncompliance.

Additional Information: None

■ SURFACE TRANSPORTATION PROJECT DELIVERY PROGRAM

TxDOT Point of Contact: ENV, GCD

FAST Act Section and Page Number: 1308, Page 79

Summary of Section: This section amends Title 23, Section 327, of the United States Code, subsection (c)(4) to allow states to provide the Secretary with any information considered “reasonably necessary,” rather than necessary. As amended, states assume responsibility in lieu of and without further approval of the Secretary. It also inserts language ensuring compliance by each state participating in the program and outlines required audits for compliance and outlines stipulations for audit teams conducting work. The Secretary is able to terminate a state’s participation according to circumstances outlined. This section allows the Secretary to carry out education, training, peer-exchange, and other initiatives with cooperation of state officials. It also allows a state granted authority to act on behalf of a local government on a locally administered project and outlines such responsibilities.

Impact to TxDOT: The Act reduces the number of audits for a state entering the program to “annual audits during each of the first four years of state participation,” which differs from TxDOT’s memorandum of understanding (MOU) which requires six total audits -- four semiannual audits during the first two years and an annual audit during the third and fourth years of assignment. TxDOT did benefit from the FAST Act’s statutory shift to four annual audits. The new FAST Act requirement for FHWA to develop the audit team in consultation with the state has provided an improvement to pre-audit communications. The addition of Subsection (k), which permits the Secretary to carry out capacity building activities for states involved in or entering the program, is beneficial and reflects current FHWA practice. However, implementation of Subsection (k) will be limited by resource availability at FHWA headquarters and resource centers. New Subsection (l) grants authority to a state under the program to exercise its authority for locally administered projects and reflects the current status quo in Texas.

Federal Actions Required: To the extent Section 1308 is applicable, in addition to the terms of TxDOT’s Assignment MOU, Section 1308 will require FHWA to provide TxDOT with “a reasonable opportunity” to review and provide comments on the proposed members of the audit team for the semiannual audit in September 2016. FHWA will determine whether the semiannual audit performed under the MOU in April 2016 will count as an annual audit under the FAST Act. FHWA will audit states participating in the NEPA assignment program.

State Actions Required: To the extent Section 1308 is applicable, in addition to the terms of TxDOT’s Assignment MOU, Section 1308 requires FHWA to provide TxDOT with “a reasonable opportunity” to review and provide comments on the proposed members of the audit team for audit events.

Relevant Deadlines for TxDOT and Related Agencies: No deadlines are triggered by Section 1308.

Additional Information: None

■ PROGRAM FOR ELIMINATING DUPLICATION OF ENVIRONMENTAL REVIEWS

TxDOT Point of Contact: ENV, GCD

FAST Act Section and Page Number: 1309, Page 81

Summary of Section: Under Section 1309 FHWA will create a pilot program for up to five states that have already been approved in the NEPA assignment program to substitute state environmental laws and regulations for NEPA if they are at least as stringent as the federal requirement. This pilot program would terminate in 12 years. FHWA would need to develop guidelines for the required application, and the potential for TxDOT to participate in the program would depend upon those guidelines. This section also includes a provision relating to final agency actions, which would require a state to consider new information received after the close of a comment period if the information satisfies the requirements for a supplemental environmental impact statement (EIS). A supplemental EIS prepared by the state pursuant to this provision would constitute a separate final agency action for purposes of judicial review and that would be published in the Federal Register.

This is an unusual provision. It would only be applicable to state programs approved under the substitution pilot program.

Impact to TxDOT: This provision appears to have no immediate impact nor benefit for TxDOT. After FHWA prepares guidelines and application requirements for the pilot program, TxDOT can consider whether to participate in the program.

Federal Actions Required: FHWA is required to promulgate regulations under the pilot program within 270 days after enactment of the FAST Act. FHWA will review applications and monitor the program for participating states.

State Actions Required: After FHWA enacts regulations, TxDOT can consider whether to seek participation in the program.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ APPLICATION OF CATEGORICAL EXCLUSIONS FOR MULTIMODAL PROJECTS

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 1310, Page 86

Summary of Section: This section reclassifies the terms, “cooperating authority” and “lead authority”. It allows the lead authority or entity responsible for compliance with NEPA to apply categorical exclusions in implementing regulations or procedures for multimodal projects. A cooperating authority provides expertise to the lead authority.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: USDOT shall develop regulations.

State Actions Required: TxDOT may comment on any proposed regulations and develop responsive guidelines if needed.

Relevant Deadlines for TxDOT and Related Agencies: Deadlines are unknown until FHWA establishes a comment period.

Additional Information: None

■ ACCELERATED DECISION-MAKING IN ENVIRONMENTAL REVIEWS

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 1311, Page 87

Summary of Section: This section codifies existing practices for accelerating decision-making in the environmental review process. It allows a lead agency to use errata sheets (and outlines the requirements for errata sheets) in place of rewriting a draft statement. A lead agency must develop a single document consisting of the final environmental impact statement (EIS) and record of decision, and lists various exceptions. The process for avoiding duplication through adoption and incorporation by reference of documents is also discussed at length.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: Expectations for USDOT reflect the current requirements.

State Actions Required: No specific expectations are outlined for states.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ IMPROVING STATE AND FEDERAL AGENCY ENGAGEMENT IN ENVIRONMENTAL REVIEWS

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 1312, Page 88

Summary of Section: This section permits the Secretary to allow project sponsors, receiving financial assistance from USDOT, to provide funds to federal agencies, state agencies, or Indian tribes participating in the environmental planning and review process to support activities to expedite and improve the permitting and review processes. This section also outlines the eligible use of funds and requires affected federal agencies and requesting public entities to enter into an agreement identifying projects and priorities addressed prior to funding distribution.

Impact to TxDOT: TxDOT has already implemented various aspects referenced in this section, but the broader scope of activities mentioned could be used to good effect for planning for future projects with permitting federal agencies. In addition, the ability to request federal dollars to underwrite such relationships would free

up state monies used for these types of agreements. Importantly, the scope includes services such as training and other programmatic improvements and therefore will go farther than has been encouraged in the past. Such efforts should be focused on contractual definition of services provided, rather than dedicated staffing exclusively, so this broadened scope represents an important milestone.

Federal Actions Required: USDOT shall develop rules and regulations.

State Actions Required: TxDOT may comment on proposed regulations and develop responsive guidelines if needed. No other actions are required unless TxDOT chooses to take advantage of the new opportunities offered.

Relevant Deadlines for TxDOT and Related Agencies: Deadlines are unknown until FHWA establishes a comment period.

Additional Information: None

■ ALIGNING FEDERAL ENVIRONMENTAL REVIEWS

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 1313, Page 89

Summary of Section: This section requires USDOT, in tandem with other federal agencies, to develop a coordinated and concurrent environmental review and permitting process for transportation projects. Within 90 days, the agencies should jointly develop a checklist to help project sponsors identify potential natural, cultural, and historic resources within a project area. This section requires the Secretary to facilitate annual interagency collaboration sessions at the appropriate jurisdictional level. It also requires the Secretary, no later than one year after enactment of the section, to establish a program to measure and report on progress toward aligning federal reviews and reducing permitting and project delivery time. This section requires the Secretary to submit a congressional report describing progress and the impact of this section no later than two years after the date of enactment. It must establish a performance measurement program to track progress to align federal reviews and reduce permitting and project delivery time.

Impact to TxDOT: TxDOT currently utilizes tools and processes in place that serve the function of the required checklist and other requirements of the section. The agencies should be encouraged to maintain flexibility in its implementation for those states that already have processes and tools in place. The new performance measurement program will require TxDOT to provide existing or collect new data. The addition of this step will add time to the overall process and may duplicate efforts already in place.

Federal Actions Required: USDOT shall develop regulations, facilitate collaboration sessions, develop a checklist, and report findings to Congress.

State Actions Required: TxDOT shall work with pertinent federal agencies to develop and coordinate concurrent environmental review and permitting processes, develop a checklist, and participate in interagency collaboration sessions.

Relevant Deadlines for TxDOT and Related Agencies: Federal agencies must have concurrent review and permitting process developed within one year. They should also have a checklist developed within 90 days of enactment. Specific deadlines relevant to TxDOT remain unknown until established by FHWA.

Additional Information: None

■ CATEGORICAL EXCLUSION FOR PROJECTS OF LIMITED FEDERAL ASSISTANCE

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 1314, Page 91

Summary of Section: This section includes language adjusting for inflation to reflect any increases in Consumer Price Index, adjusting the monetary threshold for the categorical exclusion for projects receiving limited federal assistance. Any retroactive adjustments should be made no later than 60 days after enactment of this Act.

Impact to TxDOT: The requirement to adjust cost annually and retroactively will present a challenge. The TxDOT financial management system will need to be programmed to make the adjustment independently of the fixed rates it currently uses. Adjustment for inflation will replace the original estimated cost which may present a challenge for internal audit. An auditor will not be able to determine the legitimacy of the categorical exclusion (CE) determination by simply looking at the estimate.

Federal Actions Required: USDOT shall provide annual updates.

State Actions Required: TxDOT may develop a method for tracking federal reimbursements on individual (c)(23) categorical exclusion projects (CE CSJs). The method would require substantial revision of FIN procedures that do not track reimbursements by individual CSJs or project identifiers.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ PROGRAMMATIC AGREEMENT TEMPLATE

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 1315, Page 92

Summary of Section: This section requires the Secretary to develop a template programmatic agreement to verify actions are evaluated and documented in a consistent manner.

Impact to TxDOT: This will have no effect on TxDOT, since it has been assumed FHWA NEPA responsibilities and does not need a programmatic agreement with FHWA in addition to the current memorandum of understanding (MOU).

Federal Actions Required: FHWA shall develop a template agreement.

State Actions Required: No requirements are outlined for states.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ ASSUMPTION OF AUTHORITIES

TxDOT Point of Contact: ENV, TPP, DES

FAST Act Section and Page Number: 1316, Page 92

Summary of Section: The Secretary is required to allow a state to assume responsibilities for project design, plans, specifications, estimates, contract awards, and inspection of projects on both a project-specific and programmatic basis. This section also requires the Secretary to submit a congressional report no later than 18 months after enactment of this Act with recommendations for legislation to permit the assumption of additional authorities by states.

Impact to TxDOT: This section does not appear to have any direct environmental implications since it appears to do for other subject matters what Chapter 327 does for NEPA.

Federal Actions Required: USDOT shall submit a report detailing recommendations for legislation to both the House Committee on Transportation and Infrastructure and the Senate Environment and Public Works Committee.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ MODERNIZATION OF THE ENVIRONMENTAL REVIEW PROCESS

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 1317, Page 93

Summary of Section: USDOT is encouraged to explore opportunities to modernize and simplify NEPA implementation and issue a report within 180 days of enactment. USDOT is to consider the use of technology, ways to prioritize use of programmatic environmental impact statements (EIS), and methods to encourage cooperating agencies to present information in a concise format.

Impact to TxDOT: This section would not have an immediate effect on TxDOT, although TxDOT may be asked to provide information for the study.

Federal Actions Required: USDOT shall conduct a study to improve processes and NEPA implementation.

State Actions Required: No specific obligations are assigned to states.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ ASSESSMENT OF PROGRESS ON ACCELERATING PROJECT DELIVERY

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 1318, Page 93

Summary of Section: This section requires the Comptroller General to assess progress made under FAST, MAP-21, and SAFETEA-LU to accelerate project delivery of surface transportation projects by streamlining the environmental review and permitting process. The section specifies the contents of the assessment and requires the report to include recommendations.

Impact to TxDOT: TxDOT can expect to be asked to provide data for the assessment. The information requested has not been tracked or collected, and would require substantial effort to develop appropriate metrics, and search old, closed projects to apply them retroactively before reports could be prepared.

This is likely to result in a substantial time burden and commitment of resources, and much of the data is likely to be unavailable.

Federal Actions Required: USDOT may request information from States (develop templates for information gathering); prepare and submit report as directed; said report is prepared by the Comptroller General of the U.S. and submitted to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

USDOT may assess progress made to accelerate project delivery. The FAST Act has yet to identify and establish performance metrics that may become the baseline for measuring the progress in accelerating project delivery. Once the criteria are established, guidelines will need to be developed and issued so that capturing data and quantifying results are uniformly applied across the states. Three laws have been enacted for accelerating project delivery, and there needs to be coordinated effort among the requirements within each set of legislative rules to eliminate redundancy and inconsistencies of the data capture and performance documentation.

State Actions Required: TxDOT may be required to participate in data collection process. This depends upon how the Comptroller General collects the data necessary to complete the report.

Relevant Deadlines for TxDOT and Related Agencies: Assessment must occur within two years of enactment. Deadlines for TxDOT and related agencies are unknown. Other unknowns include the capabilities of TxDOT and other agencies to respond due to their current staffing levels and restricted budgets. The Comptroller General should issue the final report in December 2017. States will need to collect, analyze and submit data prior to December 2017.

Additional Information: The analysis of the FAST Act as it was being developed included an economic cost and benefit analysis. Providing the results of the cost and benefit analysis will give insight as to the cost savings predicted through increased project acceleration.

SUBTITLE D—MISCELLANEOUS

■ PROHIBITION ON THE USE OF FUNDS FOR AUTOMATED TRAFFIC ENFORCEMENT

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 1401, Page 94

Summary of Section: This section prohibits any federal Highway Safety Improvement Program (HSIP) funding apportioned from FYs 2016 through 2020 from being used to purchase, operate or maintain an automated traffic enforcement system. An automated traffic enforcement system can be defined as any camera that captures an image of a vehicle for the purposes of traffic law enforcement.

Impact to TxDOT: There is no perceived impact for TxDOT presented by this section.

Federal Actions Required: No action is required for USDOT.

State Actions Required: No action is required of states.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ HIGHWAY TRUST FUND TRANSPARENCY AND ACCOUNTABILITY

TxDOT Point of Contact: FIN

FAST Act Section and Page Number: 1402, Page 94

Summary of Section: This new section provides new requirements for semiannual reporting to the public of state highway obligations, balances, and spending rates of Highway Trust Fund (HTF) apportionments.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: Annually, the Secretary will make available a report quantifying the data pertaining to projects with construction costs greater than \$25 million.

State Actions Required: No action is required of states.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ ADDITIONAL DEPOSITS INTO HIGHWAY TRUST FUND

TxDOT Point of Contact: FIN

FAST Act Section and Page Number: 1403, Page 96

Summary of Section: This section provides that if any further legislation is enacted beyond the FAST Act that deposits money in the Highway Account or the Mass Transit Account, that money will be automatically added to highway and transit formula programs on a pro rata basis and automatically made available for obligation. Specific instruction is subsequently given for fund distribution on a pro rata basis.

Impact to TxDOT: If this were to occur, it would mean additional obligation authority that would be available for projects.

Federal Actions Required: In the event of additional monies deposited, the Secretary will distribute the monies

as stipulated to fulfill additional obligation authority.

State Actions Required: TxDOT should utilize all available funding obligation authority.

Relevant Deadlines for TxDOT and Related Agencies: Absent additional legislation dictating otherwise, all obligation authority provided in a fiscal year must be obligated to projects before FHWA closes their system in late September.

Additional Information: The Financial Management Division's Letting Management section ensures that TxDOT utilizes 100 percent of its obligation authority by actively managing federal obligations on eligible projects.

■ DESIGN STANDARDS

TxDOT Point of Contact: TPP, DES, BRG, MNT, CST

FAST Act Section and Page Number: 1404, Page 98

Summary of Section: This section adds a consideration for cost savings by utilizing design flexibility. A local jurisdiction is able to use a different roadway publication than the state uses under certain listed circumstances. A state still has the right to disallow a local jurisdiction to use another roadway publication and to review and approve anything not in line with their current policy.

Impact to TxDOT: Allowing the local jurisdictions to use roadway design standards adopted by their entities which are less stringent than AASHTO or TxDOT may be acceptable only and if used on the roads under the localities' jurisdiction, and not on the state highway system since the language limits the use of these standards on roadways owned by the locals and not on the interstate system. The limitation is also that federal money is not administered by TxDOT, but rather the locals are the direct recipient of the federal funds for the project. However, part (3) outlines a condition that the design complies with all other applicable federal laws. If TxDOT has to certify to FHWA that these projects use design standards which comply with all federal laws, then TxDOT would need to receive a certification from the local entities that they meet federal law in their design standard.

Federal Actions Required: No action steps are enumerated for USDOT or FHWA.

State Actions Required: TxDOT needs to determine design standards acceptable for local government projects.

Relevant Deadlines for TxDOT and Related Agencies: Deadlines are unknown.

Additional Information: None

■ JUSTIFICATION REPORTS FOR ACCESS POINTS ON THE INTERSTATE SYSTEM

TxDOT Point of Contact: TPP, DES

FAST Act Section and Page Number: 1405, Page 99

Summary of Section: This section gives new language that enables state DOTs to perform justification reports

for new Interstate interchange requests to also include modified freeway-to-crossroad interchanges inside a transportation management area (TMA).

Impact to TxDOT: TxDOT would be minimally impacted by this provision.

Federal Actions Required: No action steps are stipulated for USDOT at this time.

State Actions Required: No action is required of TxDOT at this time.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ PERFORMANCE PERIOD ADJUSTMENT

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 1406, Page 99

Summary of Section: Title 23, Sections 119 and 148, of the United States Code are amended to adjust reporting period durations.

Impact to TxDOT: The adjustment to reporting period durations yields no impact for TxDOT.

Federal Actions Required: This section makes no specific stipulations for USDOT.

State Actions Required: TxDOT is not required to complete any specific action steps.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ VEHICLE-TO-INFRASTRUCTURE EQUIPMENT

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 1407, Page 99

Summary of Section: This section makes the installation of vehicle-to-vehicle (V2V) communication equipment eligible for funding through National Highway Performance Program (NHPP) and the Surface Transportation Block Grant Program (STBGP).

Impact to TxDOT: No impact to TxDOT is anticipated.

Federal Actions Required: No requirements are enumerated for USDOT.

State Actions Required: No requirements are enumerated for state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ FEDERAL SHARE PAYABLE

TxDOT Point of Contact: FIN

FAST Act Section and Page Number: 1408, Page 99

Summary of Section: This section encourages the use of innovative design approaches and innovative long-life-cycle pavement materials.

Impact to TxDOT: TxDOT may ensure the Federal Project Authorize Agreement (FPAA) includes the higher federal share. If used, it would reduce the amount of non-federal funds needed on a project.

Federal Actions Required: No actions are required for USDOT or FHWA.

State Actions Required: No actions are required by state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ MILK PRODUCTS

TxDOT Point of Contact: TPP

FAST Act Section and Page Number: 1409, Page 100

Summary of Section: This section provides that vehicles carrying fluid milk products are to be considered a "load" that cannot be easily dismantled or divided.

Impact to TxDOT: TxDOT does not appear to be impacted by this provision.

Federal Actions Required: No requirements are outlined for USDOT.

State Actions Required: None

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ INTERSTATE WEIGHT LIMITS

TxDOT Point of Contact: TPP, BRG, MNT

FAST Act Section and Page Number: 1410, Page 100

Summary of Section: This section provides that interstate weight limits do not apply to a variety of heavy-duty vehicles, including tow trucks that are towing disabled vehicles, logging vehicles on Interstate 39 in Wisconsin, vehicles on a segment of U.S. 63 in Arkansas, logging vehicles on Interstate 35 in Minnesota, certain firefighting vehicles, or natural gas vehicles if the natural gas tank's extra weight is the overage over 82,000 pounds. This section also includes language specific to Texas: any vehicle that operated legally on a segment

of what is now designated as Interstate 69, prior to it being designated, can continue to do so.

Impact to TxDOT: Vehicles currently able to operate on the roadways which have been designated as the future I-69 will continue to be able to operate with the same weight restrictions. This provision would, in effect, grandfather any existing permit loads or state legal loads for these facilities. As an example, Texas law allows for a concrete truck weight limit that while legal on our state system would not be allowed on the interstate under federal law. This provision would allow these concrete trucks to operate on the portions of IH69 that were created by re-designating sections of existing facilities. This has minimal impact on TxDOT and will mostly be an issue for the Texas Department of Motor Vehicles (TxDMV) with regard to issuing permits and an enforcement issue for the Texas Department of Public Safety (DPS).

Federal Actions Required: No specific action steps are enumerated for USDOT.

State Actions Required: No specific actions are required for TxDOT.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ TOLLING; HOV FACILITIES; INTERSTATE RECONSTRUCTION AND REHABILITATION

TxDOT Point of Contact: TPP, SCM, TRF, TOD

FAST Act Section and Page Number: 1411, Page 101

Summary of Section: This section removes any hindrance to the conversion of Interstate HOV lanes and provides over-the-road buses the same access to toll facilities as public transportation buses. Section 166 is amended to allow increased tolling of HOV facilities by public authorities. Amends Section 1216(b) of TEA21 to set a three-year sunset on toll pilot project applications provisionally approved by USDOT. It also provides that USDOT can approve an application under Section 1604(c) of SAFETEA-LU if any part of the application was submitted before the deadline. Finally, the FAST Act allows a waiver of sanctions for degraded high-occupancy vehicle operation under certain conditions.

Impact to TxDOT: Of particular interest is a new provision requiring a public authority that operates a high-occupancy toll (HOT) or low emission and energy-efficient vehicle toll lane that is located on the Interstate System and within a metropolitan planning area to consult with the metropolitan planning organization (MPO) for the area regarding the placement and amount of tolls on the HOT lane.

Federal Actions Required: The Administrator of the Environmental Protection Agency may need to review the established requirements for certifications of vehicles as low emissions to ensure alternate fuel vehicles and any motor vehicles described in Section 30 D(d)(1) of the Internal Revenue Code of 1986 (relating to electric cars) are included.

State Actions Required:

- States may need to consult MPOs regarding the placement and amount of tolls on an HOV facility in the metropolitan planning area.
- For any TxDOT maintained HOV facilities, if an HOV facility is degraded, no later than 180 days after the date in which a facility is degraded, the state may need to submit a plan to the Secretary that details the

actions the state will take to make significant progress towards bringing the facility into compliance with performance standards.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ PROJECTS FOR PUBLIC SAFETY RELATING TO IDLING TRAINS

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 1412, Page 105

Summary of Section: This section amends existing Title 23, Section 130, of the United States Code to make “projects at grade crossings to eliminate hazards posed by blocked grade crossings due to idling trains” eligible for Section 130 grade crossing money.

Impact to TxDOT: No perceived impact exists for TxDOT.

Federal Actions Required: No requirements are enumerated for USDOT or FRA.

State Actions Required: TxDOT may take advantage of any available additional funding for projects to eliminate hazards posed by blocked grade crossing due to idling trains.

Relevant Deadlines for TxDOT and Related Agencies: No deadlines are communicated in this section.

Additional Information: None

■ NATIONAL ELECTRIC VEHICLE CHARGING AND HYDROGEN, PROPANE, AND NATURAL GAS FUELING CORRIDORS

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 1413, Page 106

Summary of Section: This new section directs USDOT, to designate national electric vehicle charging and hydrogen/propane/natural gas fueling corridors within one year of enactment. It allows the General Services Administration (GSA) to install, construct, operate and maintain battery charging stations for the personal use of federal employees in federal employee private vehicle parking locations.

Impact to TxDOT: FOD asks to be kept informed on any developments regarding Section 1413 of the FAST Act due to FOD's responsibility for TxDOT's alternative fuels program. Texas currently has a defined corridor (Clean Transportation Triangle) that is an area of focus for developing increased alternative fuels use and infrastructure under the Texas Emissions Reduction Program (TERP), including CNG and propane infrastructure, with electric charging stations a likely addition in the future. The current “triangle” includes an area that encompasses the counties surrounding Dallas, Fort Worth, Austin, San Antonio and Houston, with some program funding available for projects in El Paso and other counties with air quality issues. FOD is piloting some alternative fuels projects within TxDOT's fleet and intends to pursue TERP funding for appropriate

programs. Because of this activity, TxDOT should serve as a resource as state leaders develop nominations for facilities to be included in the federally designated corridors.

TRF is not impacted by the GSA program to install, construct, operate and maintain battery charging stations for federal employees in federal employee private vehicle parking locations.

Federal Actions Required: Within two years of enactment and annually thereafter, the GSA Administrator should submit a report to congressional committees documenting the progress made for the installation of battery recharging stations.

State Actions Required: No specific action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ REPEAT OFFENDER CRITERIA

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 1414, Page 109

Summary of Section: Amends Title 23, Section 164, of the United States Code to allow 24-7 sobriety programs to be used instead of ignition interlocks or complete license suspensions. This section also defines two specific “special exceptions” under state alcohol and ignition interlock laws.

Impact to TxDOT: This section could impact Traffic Safety education and outreach campaigns conducted by TRF.

Federal Actions Required: No action is required by USDOT.

State Actions Required: No action is required by TxDOT.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ ADMINISTRATIVE PROVISIONS TO ENCOURAGE POLLINATOR HABITAT AND FORAGE ON TRANSPORTATION RIGHTS-OF-WAY

TxDOT Point of Contact: ROW, MNT

FAST Act Section and Page Number: 1415, Page 110

Summary of Section: Title 23, Section 319, of the United States Code is amended to require USDOT to encourage integrated vegetation management practices on rights-of-way and cultivate viable habitats for pollinating species.

Impact to TxDOT: MNT has been heavily involved in pollinator habitat creation and its restoration for some time. MNT is beginning to work on migratory way stations in Safety Rest Areas and are actively seeking additional

locations. This provision reinforces the work already underway.

Federal Actions Required: The Secretary shall encourage the implementation of habitat creation for pollinating species, like monarch butterflies and honey bees.

State Actions Required: If willing, states may participate in programs implemented.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ HIGH PRIORITY CORRIDORS ON NATIONAL HIGHWAY SYSTEM

TxDOT Point of Contact: TPP

FAST Act Section and Page Number: 1416, Page 110

Summary of Section: This section amended Section 1105(c) of Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) to redefine high priority corridors in North Carolina, Texas, Nevada, Arizona, New York and Oregon.

Impact to TxDOT: This section added SH 44 from U.S. 59 at Freer to SH 358 to the Interstate 69 System. It also added the “Central Texas Corridor” (a.k.a. Interstate 14), which generally follows portions of U.S. 190 beginning at Interstate 10 in the west, passing through Fort Hood and various cities to the terminus at Texas Highway 63 at the Sabine River Bridge at Burrs Crossing in the east.

Federal Actions Required: FHWA will need to officially designate the noted section of highway as “interstate highway” as stipulated in this section.

State Actions Required: TxDOT will work with FHWA in the designation process of various roadways as “interstate highways.”

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: In FY 2017, a 25-mile section of U.S. 190 from the eastern junction of U.S. 190 and Business U.S. 190E in Copperas Cove to Interstate 35 in Belton was designated as Interstate 14.

■ WORK ZONE AND GUARD RAIL SAFETY TRAINING

TxDOT Point of Contact: MNT, CST

FAST Act Section and Page Number: 1417, Page 112

Summary of Section: Amends Section 1409 of SAFETEA-LU to make guard rail installation, maintenance and inspection training courses eligible for funding.

Impact to TxDOT: We anticipate no direct impact to CST, though we expect that this addition will progress the goal of preventing and reducing highway work zone injuries and fatalities.

Federal Actions Required: No specific requirements are enumerated for USDOT.

State Actions Required: No specific requirements are enumerated for state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ CONSOLIDATION OF PROGRAMS

TxDOT Point of Contact: TPP

FAST Act Section and Page Number: 1418, Page 112

Summary of Section: SAFETEA-LU legacy allocated safety programs that had been receiving \$3 million per year of FHWA administrative expenses are instead eligible to receive a \$3.5 million per year set-aside from FHWA formula apportionments.

Impact to TxDOT: This section presents no anticipated impact for TxDOT.

Federal Actions Required: The Secretary shall set aside funds (\$3,500,000) available to carry out the highway safety improvement program for the fiscal year.

State Actions Required: No specific action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ ELIMINATION OR MODIFICATION OF CERTAIN REPORTING REQUIREMENTS

TxDOT Point of Contact: TPP

FAST Act Section and Page Number: 1419, Page 112

Summary of Section: This section repeals other legislative sections to move forward with future reporting; Section 6016(e) of ISTEA (fundamental properties of asphalt report) and Section 1604(b)(7)(B) of SAFETEA-LU (express lanes demonstration program report).

Impact to TxDOT: No impact is presented for TxDOT in this provision.

Federal Actions Required: No action is required of USDOT.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ FLEXIBILITY FOR PROJECTS

TxDOT Point of Contact: TPP, ENV

FAST Act Section and Page Number: 1420, Page 112

Summary of Section: This section allows the Secretary to “exercise all existing flexibilities under and exceptions to” Title 23 and other statutes. This section does not waive any NEPA protections in place or other requirements of Title 23 or 49 of the United States Code

Impact to TxDOT: This section essentially allows state DOTs to apply any provisions in Title 23 relating to flexibility or expedited processing to any project eligible for funding under Title 23. Given the content of Subsection (b), it does not appear that this section gives the department any new environmental flexibility it does not already have under the terms of the memorandum of understanding (MOU).

Federal Actions Required: No specific requirements are outlined for USDOT.

State Actions Required: No anticipated implementation is required for TxDOT.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ PRODUCTIVE AND TIMELY EXPENDITURE OF FUNDS

TxDOT Point of Contact: FIN

FAST Act Section and Page Number: 1421, Page 113

Summary of Section: This section requires the Secretary to develop guidance within one year of enactment to encourage the use of programmatic approaches for project delivery, expedited procurement techniques, and other best practices to facilitate productive, effective, and timely expenditure of funds for projects eligible for funding under Title 23 of the United States Code.

Impact to TxDOT: The impact of this provision is dependent upon the guidance that is developed by the Secretary.

Federal Actions Required: The Secretary shall work with states to ensure that any guidance developed will be implemented by states and FHWA.

State Actions Required: No action is required of state DOTs

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ STUDY ON PERFORMANCE OF BRIDGES

TxDOT Point of Contact: BRG

FAST Act Section and Page Number: 1422, Page 113

Summary of Section: Section 1422 directs FHWA to commission the Transportation Research Board of the National Academy of Sciences to conduct a study on the performance of bridges that received funding under the Innovative Bridge Research and Construction (IBRC). This IBRC Program is a component of SAFETEA-LU under the TEA-21 law. This section also includes a study of innovative techniques to separate vehicle and pedestrian traffic from railroad traffic.

Impact to TxDOT: TxDOT completed a few bridge projects under this program, so solicitation to contribute to this study is imminent. The level of effort or resources required should be minimal.

Federal Actions Required: The Federal Highway Administrator will submit to Congress a conclusive study detailing the performance of bridges that received funding that was commissioned under Subsection (a) within three years of enactment.

State Actions Required: States that receive funds from the program should provide data to the Transportation Research Board (TRB) to assist in the study.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: The Transportation Research Board (TRB) formed a committee and is engaging a consultant to accomplish this task. TxDOT involvement should be limited to providing information on the few IBRC projects in which we participated. Below is a list of projects from 2001-2012 (the list also includes IBRD (Innovative Bridge Research and Deployment) projects).

Year Applied for funds	Location	Innovation	Amount Requested	Amount Awarded
2012	CR EE: Gageby Creek	Accelerated Bridge Construction	\$30,000	\$30,000
2005	All Future Precast Segmental Concrete Bridge Construction	Corrosion Resistant Materials for Post-Tensioning Systems	\$150,000	\$150,000
2005	FM 1660: Cottonwood Creek	Rapid Bridge Replacement	\$400,000	\$400,000
2005	SafeLane Anti-icing Pavement Overlay System	IH 40 (WB):RM 1043	\$117,576	\$117,576
2005	Full-Depth Integral Bridge Slab	IH 35:SH 6, etc.	\$200,000	\$57,362
2005	Graffiti Proofer and Concrete Curing Agent	Chacon Creek Bridge	\$6,150	\$6,150
2005	FM 2063: Interstate Highway (IH) 35	Pre-topped U-Beams with Cast-in-Place Deck	\$400,000	\$400,000
2004	IH 35: Hill Road, etc.	Prefabricated Structures	\$400,000	\$400,000
2004	SH 290: Live Oak Creek	Full-Depth precast Deck Panels and Precast Bent Caps	\$270,000	\$270,000
2004	FM 1961: Eighteen Mile Creek	Sandwich Plate System	\$400,000	\$400,000
2003	IH 35: Various locations	Precast Bridge Construction System	\$675,000	\$400,000
2003	FM 1684: Drainage Ditch	FRP Beams/FRP Deck, 42' span	\$370,000	\$370,000
2002	FM 3284: Drainage Ditch	Supplement for FY 2000 IBRC award	\$300,000	\$300,000
2002	IH 40: Washington Street Underpass	MMFX Steel Reinforcement	\$85,071	\$85,071
2002	US 82: Park Road, etc.	Galvanic Anode Protection system	\$95,000	\$95,000
2001	FM 1362: Sue Creek	FRP Laminates	\$95,000	\$95,000
2001	SH 66: Lake Ray Hubbard	HPC Concrete & Maturity Testing System	\$300,000	\$300,000

■ RELINQUISHMENT OF PARK-AND-RIDE LOT FACILITIES

TxDOT Point of Contact: ROW

FAST Act Section and Page Number: 1423, Page 114

Summary of Section: This section allows states to relinquish park-and-ride facilities to localities under certain conditions if authorized under state law.

Impact to TxDOT: There is no provision under Texas law for the relinquishment of park-and-ride lots to local government agencies. Administrative rules do exist which would allow such lots under a multiple use agreement, but in no event would the lots be conveyed. This provision would therefore have no impact on the department.

Federal Actions Required: No specific action is required of USDOT.

State Actions Required: No specific action is required of TxDOT.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ PILOT PROGRAM

TxDOT Point of Contact: ROW, MNT

FAST Act Section and Page Number: 1424, Page 114

Summary of Section: This section creates a pilot program within FHWA that would allow states to utilize innovative approaches to maintaining right-of-way for Federal-Aid highways. The pilot program shall terminate in four years or less, include less than or exactly five states and be subject to guidelines published by the Administrator.

Impact to TxDOT: This section provides for innovative programs for maintenance of right-of-way of state-maintained roadway. It has no impact on the Maintenance or Right of Way Divisions at this time.

Federal Actions Required: If the Administrator creates a pilot program, a report will be presented to Congress within one year after its completion.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ SERVICE CLUB, CHARITABLE ASSOCIATION, OR RELIGIOUS SERVICE SIGNS

TxDOT Point of Contact: ROW

FAST Act Section and Page Number: 1425, Page 114

Summary of Section: This section provides that, notwithstanding Title 23, Section 131, of the United States Code and Title 23, Part 750, of the Code of Federal Regulations, if a state notifies FHWA, a state may allow the

maintenance of signs of service clubs, charitable association, or religious service organizations that exist as of the date of enactment or had been removed in the previous three years and are less than 32 square feet shall be allowed.

Impact to TxDOT: We view the language of this section as somewhat ambiguous, but based upon our interpretation, in conjunction with GCD, we believe that TxDOT is in compliance and that there would be no impact to the Outdoor Advertising program in Texas.

Federal Actions Required: No action must be taken by USDOT or FHWA.

State Actions Required: State DOTs must notify FHWA of the presence of any particular signage in question.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: Some signage meets this criteria, however due to the new legislation, our program no longer regulates these types of non-commercial speech signs. As such we have no actions required. We have notified FHWA.

■ MOTORCYCLIST ADVISORY COUNCIL

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 1426, Page 115

Summary of Section: This section establishes a Motorcyclist Advisory Council to be appointed by the Secretary (acting through the FHWA Administrator) to advise the Administrator on motorcycle-related issues for infrastructure design.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Secretary via the Federal Highway Administrator will appoint a Motorcyclist Advisory Council.

State Actions Required: State DOTs have not been given specific action to complete.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ HIGHWAY WORK ZONES

TxDOT Point of Contact: TRF, MNT, CST

FAST Act Section and Page Number: 1427, Page 115

Summary of Section: This section expresses the sense of Congress that FHWA should do their utmost to protect the lives of construction workers in highway work zones. Regulations directed in Section 1405 of MAP-21 should be enacted and finalized rapidly.

Impact to TxDOT: Additional fields may be necessary for the Crash Records Information System (CRIS) but this provision poses no immediate impact for TxDOT.

Federal Actions Required: FHWA should finalize the regulations previously enacted in MAP-21.

State Actions Required: TxDOT may follow the regulations enacted in MAP-21.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ **USE OF DURABLE, RESILIENT, AND SUSTAINABLE MATERIALS AND PRACTICES**

TxDOT Point of Contact: DES, MNT, CST

FAST Act Section and Page Number: 1428, Page 115

Summary of Section: USDOT should encourage the use of durable, resilient and sustainable materials and practices, including geosynthetic materials and other innovative technologies.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: No action is required of FHWA or USDOT.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ **IDENTIFICATION OF ROADSIDE HIGHWAY SAFETY HARDWARE DEVICES**

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 1429, Page 115

Summary of Section: This section directs USDOT to conduct a study on methods for identifying roadside highway safety hardware devices to improve the data collected on the devices. This section outlines various methods for evaluation and various types of identification methods.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Secretary shall conduct a study and submit the finding to Congress no later than January 1, 2018.

State Actions Required: TxDOT may be asked to participate in the study if necessary.

Relevant Deadlines for TxDOT and Related Agencies: No deadlines are enumerated for state DOTs.

Additional Information: None

■ USE OF MODELING AND SIMULATION TECHNOLOGY

TxDOT Point of Contact: TPP

FAST Act Section and Page Number: 1430, Page 116

Summary of Section: This section expresses the sense of Congress that encourages the USDOT to increase the use of “modeling and simulation” technologies whenever possible to analyze projects.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: USDOT is encouraged to perform analysis to ensure that projects will increase transportation capacity and safety, alleviate congestion, and reduce travel time and environmental impacts while maintaining cost effectiveness.

State Actions Required: No action is required for state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ NATIONAL ADVISORY COMMITTEE ON TRAVEL AND TOURISM INFRASTRUCTURE

TxDOT Point of Contact: TRV, TPP

FAST Act Section and Page Number: 1431, Page 116

Summary of Section: This section directs USDOT to establish a National Advisory Committee on Travel and Tourism Infrastructure. The proposed committee should include regional and MPO organizations and should make recommendations regarding an integrated national transportation system.

Impact to TxDOT: This section does not include specific implementation action for TxDOT.

Federal Actions Required: The Secretary shall establish the committee within 180 days of enactment of this Act. Within three years of enactment, the Secretary in consult with the Committee, state DOTs, and other appropriate public and private transportation stakeholders shall develop and post on the USDOT public website, a national travel and tourism infrastructure strategic plan.

State Actions Required: TxDOT may be asked to participate in the development of a national travel and tourism infrastructure strategic plan.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ EMERGENCY EXEMPTIONS

TxDOT Point of Contact: MNT

FAST Act Section and Page Number: 1432, Page 118

Summary of Section: This section provides that any road, highway, railway, bridge, or transit facility damaged in a Stafford Act emergency may be reconstructed in exactly the same capacity, dimensions and design under greatly expedited permitting procedures. This provision does allow for some exemptions to the National Historic Preservation Act and the Endangered Species Act.

Impact to TxDOT: This section will have no discernible impact on TxDOT, but may assist in the repair or reconstruction of damaged infrastructure as a result of an emergency.

Federal Actions Required: This provision allows for exceptions and expedited procedures to standard permitting procedures and timelines under extraordinary emergency circumstances.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ REPORT ON HIGHWAY TRUST FUND ADMINISTRATIVE EXPENDITURES

TxDOT Point of Contact: FIN

FAST Act Section and Page Number: 1433, Page 119

Summary of Section: Section 1433 requires the U.S. Comptroller General to provide to Congress within 150 days of enactment a report on FHWA administrative expenses from the Highway Trust Fund (HTF), with an additional update five years later.

Impact to TxDOT: No impact for TxDOT is anticipated.

Federal Actions Required: The U.S. Comptroller General shall submit a congressional report summarizing the preceding five year period.

State Actions Required: No specific requirements are outlined for state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ BORDER STATE INFRASTRUCTURE

TxDOT Point of Contact: TPP-FIT, FIN

FAST Act Section and Page Number: 1437, Page 121

Summary of Section: This section allows states on the border with Canada or Mexico to designate for each fiscal year up to 5 percent of its Surface Transportation Block Grant Program (STBGP) funding for border infrastructure.

Impact to TxDOT: TxDOT may need to go through a project selection process to decide which border projects to fund. The criteria is the same as the Coordinated Border Infrastructure Program, Section 1303 of SAFETEA-

LU (23 U.S.C. 101 note; 119 Stat. 1207).

Federal Actions Required: The Secretary shall receive the designation no later than 30 days before the first day of each fiscal year for which the designation may be made.

State Actions Required: The Governor will need to certify that the designation is consistent with transportation planning requirements. The Governor will also submit to the transportation planning organizations within the border region a written notification of any funding available for obligation by jurisdiction. The Governor must also notify the Secretary of the termination of a designation if necessary.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: The Financial Management Division's Letting Management section requests five percent of its Surface Transportation Block Grant Program (STBGP) for border infrastructure. TPP-FIT has implemented a process whereby the District Offices coordinate with their local MPO's reviewing projects together. Once agreed upon, project information can be sent to TxDOT for final review. At which time, the final project list may be passed on to FHWA.

■ ADJUSTMENTS

TxDOT Point of Contact: FIN

FAST Act Section and Page Number: 1438, Page 121

Summary of Section: This section permanently rescinds \$7.569 billion of highway contract authority apportionments held by states on July 1, 2020. The rescission does not apply to safety-related apportionments or to money that was sub-allocated based on population. The amount to be rescinded shall be based pro rata on amounts of unobligated balances held by states on September 30, 2019 and within each state, the amount shall be proportionately applied to each program based on the unobligated balances in that program as of September 30, 2019.

Impact to TxDOT: In order to authorize a project, both apportionment and obligation authority are needed so rescissions of apportionment have not reduced the amount of federal spending. However, rescinding apportionment does impact the amount of flexible apportionment available and when states do not have the flexibility to have balances of highly restrictive apportionment rescinded in a greater proportion than less restrictive apportionment, it impacts project funding options.

Federal Actions Required: USDOT shall provide the rescission notice to the states.

State Actions Required: TxDOT may respond by the deadline provided in the rescission notice.

Relevant Deadlines for TxDOT and Related Agencies: Deadlines should be set by USDOT in notice of rescission.

Additional Information: The Financial Management Division's Letting Management Section is aware and prepared for the FAST Act rescission, by actively monitoring obligation authority (OA), notices of other rescission(s) and managing federal obligations to address potential impacts to OA balances.

■ ELIMINATION OF BARRIERS TO IMPROVE AT-RISK BRIDGES

TxDOT Point of Contact: ENV, BRG

FAST Act Section and Page Number: 1439, Page 122

Summary of Section: This section provides a temporary allowance for bridge projects which may have experienced setbacks or delays due to the Migratory Bird Treaty Act (MBTA). This section allows bridges with a component condition rating of three or less to move forward despite the presence of nesting swallows and directs the Interior Department to take longer-term actions. It requires the Secretary of the Interior to promulgate a regulation authorizing the removal of nesting swallows to facilitate bridge repair, maintenance or construction without individual permits under conditions consistent with the MBTA. Until the regulation is implemented, this section also temporarily authorizes the take of nesting swallows for bridges with any component condition relating three or less, but requires notice to the Secretary of the Interior prior to the removal. The Secretary of the Interior may suspend the temporary authorization through publication in the Federal Register if the removal of nesting swallows has a significant adverse effect on swallow populations.

Impact to TxDOT: It is difficult to evaluate the impact to TxDOT of this section until more specific guidance is issued. The temporary authorization requires notice, and specifies the contents of the notice, but guidance will likely be needed for clarification. It also may be logistically difficult to provide the estimate of the number of birds by species to be taken in order to prepare the notice. However, BRG believes that a relatively small number of bridge projects would meet the condition criterion to benefit from the temporary authorization.

Federal Actions Required: The Secretary of the Interior in consultation with the Secretary (DOT) shall develop regulations for the responsible management of this provision.

State Actions Required: If proceeding with actions under temporary take allowance, TxDOT must implement measures to minimize impacts, prepare a notification before and after taking of nesting swallows.

Relevant Deadlines for TxDOT and Related Agencies: Upon promulgation of final rule to authorize the removal of nesting swallows is permanent, and for each project we wish to apply this to, a Notification Before Taking must be submitted prior to taking of swallows (no timeframe currently specified). A Notification After Taking must be submitted no later than 60 days after taking.

Additional Information: None

■ AT-RISK PROJECT PREAGREEMENT AUTHORITY

TxDOT Point of Contact: TPP, FIN

FAST Act Section and Page Number: 1440, Page 123

Summary of Section: Section 1440 allows recipients of money under Title 23 of the United States Code to incur preliminary engineering costs in advance of project authorization under certain circumstances and may request reimbursement of applicable federal funds after engineering costs

Impact to TxDOT: FIN requires one business week to prepare the Federal Project Authorization Agreement (FPAA) and submit it to FHWA to request their signature. Proceeding without FHWA authorization does carry some risk that FHWA would not participate in the costs if any of their requirements are not met. While not used

extensively, this provision does provide TxDOT with another tool to assist in our mission and may streamline the process and increase efficiency.

Federal Actions Required: The Secretary may reimburse preliminary engineering costs incurred if: the recipient meets all requirements under Title 23 of the United States Code, the project location is within a designated non-attainment or maintenance area for air quality and if the costs would have been allowable if incurred after the date of project authorization by USDOT.

State Actions Required: No action is required unless a state chooses to request reimbursement of applicable federal funds after the project authorization is received.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ REGIONAL INFRASTRUCTURE ACCELERATOR DEMONSTRATION PROGRAM

TxDOT Point of Contact: PFD, TPP

FAST Act Section and Page Number: 1441, Page 124

Summary of Section: This section directs USDOT to establish a regional infrastructure demonstration program to assist entities in developing improved infrastructure priorities and financing strategies. It authorizes \$12 million in appropriations from the general fund in FY 2016 to carry out the program by USDOT.

Impact to TxDOT: It seems the purpose of the program is to promote the use of TIFIA and other innovative financing methods and assist entities in evaluating and facilitating the use of public-private partnership (PPPs). TxDOT is very experienced with both accessing the TIFIA program and utilizing PPPs and utilizing alternative delivery methods. This program does not appear to impact TxDOT.

Federal Actions Required: The Secretary shall use specific funds for grants to accelerate regional infrastructure and cover administrative costs of the program. The Secretary will also submit an annual report on the finding and effectiveness of the program.

State Actions Required: State DOTs may apply for funding through various innovative funding methods.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ SAFETY FOR USERS

TxDOT Point of Contact: TPP, TRF, DES

FAST Act Section and Page Number: 1442, Page 125

Summary of Section: This section directs USDOT to encourage state DOTs and MPOs to adopt design standards that take into consideration safety and accommodation of all users including nonmotorized patrons.

Impact to TxDOT: No implementation action is required of TxDOT.

Federal Actions Required: The Secretary shall provide a report within two years of enactment on best practices developed and catalogued.

State Actions Required: States may provide feedback to USDOT on successful measures adopted that have provided for the safe and adequate accommodation of all users of the surface transportation network in all phases of project planning, development and operation.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ SENSE OF CONGRESS

TxDOT Point of Contact: FED, TPP

FAST Act Section and Page Number: 1443, Page 125

Summary of Section: Congress recognizes the value and expertise of the engineering industry and encourages state and local agencies to utilize engineering services to strengthen project plans and final results.

Impact to TxDOT: No implementation action required of TxDOT.

Federal Actions Required: No action is required of USDOT.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ EVERY DAY COUNTS INITIATIVE

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 1444, Page 125

Summary of Section: This section requires FHWA to continue the Every Day Counts initiative and identify new innovations and best practices every two years.

Impact to TxDOT: This section poses no immediate impact on TxDOT.

Federal Actions Required: FHWA shall work with stakeholders to identify and deploy innovations and best practices.

State Actions Required: TxDOT may be asked to assist FHWA in developing innovations and best practices.

Relevant Deadlines for TxDOT and Related Agencies: This section makes no mention of deadlines to observe.

Additional Information: None

■ WATER INFRASTRUCTURE FINANCE AND INNOVATION

TxDOT Point of Contact: MRD

FAST Act Section and Page Number: 1445, Page 126

Summary of Section: Section 5028(a)(5) of the Water Resources Reform and Development Act of 2014 (WRRDA) is removed. Section 5028(a)(5) had prevented credit assistance outlined in the Water Infrastructure Finance Innovation Act (WIFIA) from being provided to projects that are financed, in whole or in part, with tax-exempt municipal bonds.

Impact to TxDOT: TxDOT pointed out that the prohibition included in WRRDA 2014 was problematic. This modification will allow TxDOT and other public sector entities to participate in the Water Infrastructure Finance Innovation Act (WIFIA) program.

Federal Actions Required: U.S. Army Corps of Engineers (USACE) implementation guidance shall be provided.

State Actions Required: TxDOT may utilize various forms of funding including WIFIA.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: USACE issued a memo stating that they will write implementation guidance once funds are appropriated.

TITLE II—INNOVATIVE PROJECT FINANCE

■ TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT OF 1998 AMENDMENTS

TxDOT Point of Contact: PFD, TPP, SCM, FIN

FAST Act Section and Page Number: 2001, Page 128

Summary of Section: Congress amended this section to include the Transportation Infrastructure Finance and Innovation Act (TIFIA) program to expand eligibility for the program to include small projects, rural projects and transit-oriented developments. It allows more flexibility and seeks to streamline the program and increases assistance to applicants. There will be a streamlined application process that allows for conventional loan applications to be expedited. The new streamlined application process will be for loans that use a set of conventional terms including: 1) loans no more than \$100,000,000, 2) loans that are payable from pledged revenues not affected by project performance and 3) loans where the repayment starts not later than 5 years from the disbursement.

It provides more opportunities for TxDOT to use TIFIA funds or access them through partnerships with local and county governments as well as private sector. Allowing the use of TIFIA for rural projects and transit oriented developments will increase competition for funding. The Secretary is required to set aside not less than \$2,000,000 for small projects having eligible project costs that are reasonably anticipated not to equal or exceed \$75,000,000.

This section replaces subparagraph (B) with an exceptions clause for intelligent transport systems projects regarding transit-oriented development, rural, and local infrastructure projects; and outlines eligible project costs for each project type. This section edits the provision regarding project readiness as part of eligibility for financial assistance and adds language regarding a rural projects fund.

Impact to TxDOT: TPP or another division will need to estimate TxDOT's potential use of this new funding.

Federal Actions Required: The Secretary administers the program.

State Actions Required: TxDOT may choose to apply for grants and innovative financing opportunities.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ AVAILABILITY PAYMENT CONCESSION MODEL

TxDOT Point of Contact: PFD, SCM, FIN

FAST Act Section and Page Number: 2002, Page 135

Summary of Section: This section approves the use of availability payments to pay construction costs.

Impact to TxDOT: Since TxDOT does not have authority to use availability payments for its projects, TxDOT will not benefit from this section.

Federal Actions Required: No action is required of USDOT.

State Actions Required: No action is required of TxDOT.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

TITLE III—PUBLIC TRANSPORTATION

■ METROPOLITAN AND STATEWIDE TRANSPORTATION PLANNING

TxDOT Point of Contact: PTN, TPP

FAST Act Section and Page Number: 3003, Page 136

Summary of Section: Title 4, Section 5303, of the United States Code is amended to reflect a more collaborative public transportation model. This section is amended to add “bicycle and transportation facilities” to include intermodal facilities that support intercity transportation. This section is also amended to state that the selection of MPO officials will be determined by law or by organizational enabling statute. It clarifies that the addition of a “public transportation representative” on a MPO policy board shall be determined by the MPO according to their bylaws. Section 5303 adds intercity bus and other private transportation providers or alternative transport modes to lists of stakeholders and modes for inclusion in the planning process. It also introduces a Congestion Management Plan, which allows MPOs to develop a

plan to be included in the TIP that develops regional goals to reduce vehicle miles traveled (VMT) during peak commuting hours, improve connections between people and jobs, and identify potential projects and programs that can reduce congestion. This section directs that a bi-state MPO region must be treated as an MPO and a transportation management area.

Impact to TxDOT: While this section increases the technical scope of the planning process, it is not expected to increase workload in a significant amount.

Federal Actions Required: The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) will coordinate federal oversight of metropolitan planning.

State Actions Required: TPP and PTN can include the revisions in the planning requirements in our participation with metropolitan planning organizations (MPOs). TPP staff may work with MPOs to ensure they include intercity bus and other required stakeholders in their planning processes.

Relevant Deadlines for TxDOT and Related Agencies: Deadlines have not been specified but TxDOT can expect a review of MPO planning processes during respective certification reviews.

Additional Information: These changes may cause the Texarkana MPO to be considered a transportation management area (TMA), which will require more work on their MPO staff.

■ URBANIZED AREA FORMULA GRANTS

TxDOT Point of Contact: PTN

FAST Act Section and Page Number: 3004, Page 139

Summary of Section: Title 49, Section 5307, of the United States Code is amended to create an exception to the urbanized area formula grants special rule, creating an allowance for partnerships between various public transportation systems. It expands the special rule for operating expenses in large urbanized areas (UZA) to include demand response service (excluding paratransit). It also allows local decision-making on how to allocate special rule funding and ties maintenance requirements to asset management plan.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Federal Transit Administration (FTA) will have to change some internal formula processes, and revise program guidance to parallel the new statute.

State Actions Required: No actions are directed to state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: TxDOT does not handle this program in the state budget; each urbanized area has a direct recipient that works directly with FTA.

■ FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS

TxDOT Point of Contact: PTN

FAST Act Section and Page Number: 3005, Page 139

Summary of Section: Amends Title 49, Section 5309 of the United States Code to introduce an optional early rating procedure for fixed guideway capital investment grants. An expedited project delivery for a capital investment grants pilot program is created, which aims to streamline the project delivery process for up to eight grants for new fixed guideway capital projects, core capacity improvement projects, or small start projects. The goal of this program is to expedite projects with less than 25 percent federal funding that are supported by public-private partnerships. This is a competitive program for large rail or bus rapid transit projects, typically in large urbanized areas.

Impact to TxDOT: Projects of this type and magnitude would have a beneficial impact on congestion and connectivity in the large urbanized areas, and the statutory amendments would accelerate those projects.

Federal Actions Required: Internal processes and responsibilities for implementation fall to the Federal Transit Administration (FTA).

State Actions Required: No specific actions are required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES

TxDOT Point of Contact: PTN

FAST Act Section and Page Number: 3006, Page 151

Summary of Section: The Secretary should conduct a study that compiles innovative practices, program models, and new service delivery options and introduces a pilot program for innovative coordinated access and mobility to provide grants for innovative projects that improve the coordination of transportation services and non-emergency medical transportation, including the deployment of technology. Directs the Interagency Transportation Coordinating Council for Access and Mobility--which outlines the role and responsibilities of each federal agency with respect to local transportation--to identify areas of collaboration, and address outstanding recommendations made by the Council's 2005 report.

Impact to TxDOT: This section has a minimal effect on TxDOT. The pilot program may help fund some innovative projects that improve public transportation, and it is likely TxDOT may submit proposals.

Federal Actions Required: The action required is predominately internal Federal Transit Administration (FTA) processes; coordinating meetings, compiling data through the study, and the pilot (discretionary) program.

State Actions Required: TxDOT may submit proposals for the pilot program and administer awards, if any.

Relevant Deadlines for TxDOT and Related Agencies: Deadlines will be set when Notices of Funding Opportunity (NOFO) are publicized.

Additional Information: None

■ FORMULA GRANTS FOR RURAL AREAS

TxDOT Point of Contact: PTN

FAST Act Section and Page Number: 3007, Page 153

Summary of Section: This section defines policy for allocating transportation funds between multiple Indian tribes within a single Tribal Statistical Area. It establishes that revenue from advertising and concession sales, along with cash from non-government sources, may be used as a match. This provision also expands intercity bus expenses that can be used as match. Program funds grow 10.8 percent by 2020.

Impact to TxDOT: Impact on TxDOT is anticipated to be minimal. An amendment to TxDOT guidance processes will be required to acknowledge the new match definition.

Federal Actions Required: Internal Federal Transit Administration (FTA) processes will be required in order to move forward with these changes.

State Actions Required: No actions are delegated to state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: Deadlines have not been established.

Additional Information: Currently, none of the three federally-recognized Indian tribes participate in the Section 5311 program directly.

■ PUBLIC TRANSPORTATION INNOVATION

TxDOT Point of Contact: PTN

FAST Act Section and Page Number: 3008, Page 154

Summary of Section: This section directs the Secretary to provide assistance for projects and activities that advance innovative public transportation research and development in accordance with the requirements outlined in this section.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: In order to implement these changes, the Federal Transit Administration (FTA) and USDOT will need to manage these processes internally. The Secretary should select at least one facility to engage in research associated with low or no emission vehicles.

State Actions Required: No state action is required, although public universities may choose to apply for the new research program.

Relevant Deadlines for TxDOT and Related Agencies: Deadlines have not been established yet by pending Notices of Funding Opportunity (NOFO).

Additional Information: None

■ TECHNICAL ASSISTANCE AND WORKFORCE DEVELOPMENT

TxDOT Point of Contact: PTN

FAST Act Section and Page Number: 3009, Page 158

Summary of Section: Amends Title 49, Section 5314, of the United States Code to enable the Secretary to make grants and enter into contracts, cooperative agreements, and other agreements to carry out activities deemed necessary to improve public transportation service. A section is added allowing the Secretary to undertake, or make grants and contracts for, programs that address human resource needs as they apply to public transportation activities. It also directs the Secretary to establish a competitive grant program to assist in the development of innovative workforce development. It directs the Secretary to establish a national transit institute and award grants to a public four-year, degree granting institution of higher education.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Federal Transit Authority (FTA) and USDOT will need to complete internal procedures for implementation.

State Actions Required: Public state universities may wish to apply for designation as the transit institute and apply for grants.

Relevant Deadlines for TxDOT and Related Agencies: No deadlines are established in this section.

Additional Information: None

■ PRIVATE SECTOR PARTICIPATION

TxDOT Point of Contact: PTN

FAST Act Section and Page Number: 3010, Page 163

Summary of Section: Title 49, Section 5315, of the United States Code is amended to clarify that nothing will alter the eligibilities, requirements, or priorities for assistance provided under this chapter. This section corrects technical errors to the existing program under MAP-21.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: USDOT and FHWA may need to amend the previous guidance.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: Deadlines have not been established.

Additional Information: None

■ GENERAL PROVISIONS

TxDOT Point of Contact: PTN

FAST Act Section and Page Number: 3011, Page 163

Summary of Section: Title 49, Section 5323, of the United States Code is amended to allow rolling stock manufacturers that procure iron and steel produced in the United States. to include the cost that iron and steel in the domestic content calculation when such iron or steel is used in rolling stock frames and car shells. Various cost allowances for rolling stock are outlined for each fiscal year. This section changes “eligible costs” to exclude the incremental cost of art or non-functional landscaping. It directs the Secretary, upon denial of a Buy America waiver, to issue a written certification that the item is produced in the United States.

In terms of procurement, this section changes the Buy America percent content from 60 percent to 65 percent in FY 2018, and to 70 percent in FY 2020. It also changes the definition of a small purchase (i.e., one not subject to Buy America) from \$100,000 to \$150,000 or less.

Impact to TxDOT: A change to the Buy America percentage may make it more difficult to find transit vehicles, especially vans, minivans, and sedans. However, transit vehicle vendors are confident that vehicle manufacturers will track materials and labor to remain compliant.

Federal Actions Required: The Federal Transit Administration (FTA) will undergo their internal processes and amend guidance as the deadlines approach. The Secretary will also need to provide applicants with a written certification of domestic supply and disclosure.

State Actions Required: TxDOT will revise compliance documentation and educate grant recipients about the new thresholds.

Relevant Deadlines for TxDOT and Related Agencies: Deadlines to keep in mind are the federal FY 2018 (10/1/2017) and 2020 (10/1/2019).

Additional Information: None

■ PROJECT MANAGEMENT OVERSIGHT

TxDOT Point of Contact: PTN

FAST Act Section and Page Number: 3012, Page 164

Summary of Section: Amends Title 49, Section 5327, of the United States Code to require, with the Secretary’s discretion, that federal oversight begins during the project development phase of a project. In some cases, the Secretary may determine it is more advantageous to begin oversight of a project during another phase. Reviews should be conducted on a quarterly basis to assure compliance by the recipient with the project management plan approved in advance.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Federal Transit Administration (FTA) and USDOT will undergo their own internal processes to conduct oversight for project management plans.

State Actions Required: No actions are specifically given to state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ PUBLIC TRANSPORTATION SAFETY PROGRAM

TxDOT Point of Contact: PTN

FAST Act Section and Page Number: 3013, Page 165

Summary of Section: Title 49, Section 5329, of the United States Code is amended to provide the Secretary with increased authority to assist public transportation systems with necessary safety needs. This may include assuming responsibility for the State Safety Oversight (SSO) program described in Section 5330.

Impact to TxDOT: This section emphasizes the importance of this initiative, and that PTN Administration and Support Section's State Safety Oversight (SSO) program be successfully implemented.

Federal Actions Required: Internal processes at the Federal Transit Administration (FTA) and USDOT will be necessary, including the preparation of a report.

State Actions Required: No action is delegated to state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: The USDOT Secretary is responsible for posting a report one year after enactment of the FAST Act.

Additional Information: None

■ APPORTIONMENTS

TxDOT Point of Contact: PTN

FAST Act Section and Page Number: 3014, Page 167

Summary of Section: Amends Title 49, Section 5336, of the United States Code to stipulate that a grant for a capital project under this section is for 80 percent of the net project cost. This section also corrects an error in the urban formula program. For FY 2016 through FY 2018, 1.5 percent shall be apportioned to urbanized areas with populations less than 200,000. That amount is increased to 2 percent in FY 2019 and FY 2020.

Impact to TxDOT: No impact is anticipated for TxDOT by this provision.

Federal Actions Required: The Federal Transit Administration (FTA) will process this change internally.

State Actions Required: Specific action requirements are not delegated to state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ STATE OF GOOD REPAIR GRANTS

TxDOT Point of Contact: PTN

FAST Act Section and Page Number: 3015, Page 167

Summary of Section: Title 49, Section 5337, of the United States Code is amended to stipulate that a grant for a capital project under this section is for 80 percent of the net project cost of the project. The remainder of the net project cost shall be provided in a variety of forms including cash. This section of Chapter 53 (5337) is for fixed-guideway transit projects and systems (rail).

Impact to TxDOT: Minimal impact is anticipated on agencies with rail or bus rapid transit service.

Federal Actions Required: Action will be undergone internally within the Federal Transit Administration (FTA).

State Actions Required: No action is directed to state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information:

■ AUTHORIZATIONS

TxDOT Point of Contact: PTN

FAST Act Section and Page Number: 3016, Page 168

Summary of Section: This provision specifically authorizes funds for FY 2016 – 2020. There is a slight increase in formula programs, including: metropolitan and statewide planning increases 10 percent (by 2020); the urban formula increases 9 percent; the rural formula increases 11 percent; 5310 increases 11 percent; and the bus capital formula program increases 9 percent.

Impact to TxDOT: No impact is anticipated for TxDOT, but the additional funds will be welcomed by transit agencies to help maintain service.

Federal Actions Required: The Federal Transit Administration (FTA) will need to implement these changes internally.

State Actions Required: No actions are required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ GRANTS FOR BUSES AND BUS FACILITIES

TxDOT Point of Contact: PTN

FAST Act Section and Page Number: 3017, Page 171

Summary of Section: This section amends Title 49, Section 5339, of the United States Code. Specifically, changes are made to the Federal Transit Administration's (FTA's) Buses and Bus Facilities grant program to allow recipients in a specific state to pool their formula funds to allow for the accommodation of larger scale procurements. The program applies to urbanized areas with populations ranging between 200,000 and 999,999;

the state is required to administer the program and develop fund allocation methodology. This provision increases rural funds from \$1.25 million to \$1.75 million per state. States and applicable transit agencies may apply for permission to implement the pilot. In addition, it reinstates a competitive grant bus program which includes a 10 percent rural set-aside and a cap that not more than 10 percent of all grant amounts can be awarded to a single grantee. It also allows states to submit statewide applications for bus needs, which would allow the state to distribute competitively, awarded funds.

Impact to TxDOT: Additional funds in the rural program will help maintain rural transit vehicles. The new / revised competitive program can further address vehicle and facility needs, upon submission and award of proposals.

Federal Actions Required: FTA will internally process these changes.

State Actions Required: TxDOT should prepare annual projects in response to Notices of Funding Opportunities (NOFO).

Relevant Deadlines for TxDOT and Related Agencies: Deadlines will depend upon posted NOFO.

Additional Information: None

■ OBLIGATION CEILING

TxDOT Point of Contact: PTN

FAST Act Section and Page Number: 3018, Page 176

Summary of Section: This section sets obligation limits for funding made available from the Mass Transit Account of the Highway Trust Fund and parallels funding authorizations elsewhere in the Act.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: Distribution of funds obligated through the MTA will require the attention of USDOT and the Federal Transit Administration (FTA).

State Actions Required: No action is delegated to state DOTs in this section.

Relevant Deadlines for TxDOT and Related Agencies: Deadlines will be internal to FTA.

Additional Information: None

■ INNOVATIVE PROCUREMENT

TxDOT Point of Contact: PTN

FAST Act Section and Page Number: 3019, Page 177

Summary of Section: This section reduces the barriers for transit agencies to develop and enter into leasing arrangements for public transportation equipment (rolling stock) or facilities by removing existing regulatory requirements that have impeded the authority of transit agencies seeking to reduce long-term capital costs. This provision increases flexibility to permit procurement from state purchasing agency schedules in any state

(currently limited to intrastate only). Also, the Secretary is able to designate pilot programs to permit non-profit, non-state agencies to develop eligible purchasing schedules.

Impact to TxDOT: No impact is anticipated for TxDOT, although current oversight and compliance procedures and documentation may need to be revised.

Federal Actions Required: The Federal Transit Administration (FTA) will make changes to their processes internally.

State Actions Required: No action is directed to state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ REVIEW OF PUBLIC TRANSPORTATION SAFETY STANDARDS

TxDOT Point of Contact: PTN

FAST Act Section and Page Number: 3020, Page 180

Summary of Section: This section directs the Secretary to review the safety standards and protocols in use for U.S. transit within 90 days of enactment. Based on this review and consultation with the industry, the Secretary will evaluate the need to establish additional federal minimum public transit safety standards and to make a comprehensive set of recommendations to improve the safety of the public transportation industry.

Impact to TxDOT: No impact on TxDOT is anticipated, although if new standards are implemented it may increase the oversight and compliance workload.

Federal Actions Required: The Federal Transit Administration (FTA) will undergo their internal process to enact these changes.

State Actions Required: No action is directed to state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ STUDY ON EVIDENTIARY PROTECTION FOR PUBLIC TRANSPORTATION SAFETY PROGRAM INFORMATION

TxDOT Point of Contact: PTN

FAST Act Section and Page Number: 3021, Page 182

Summary of Section: Directs the Secretary to work with TRB to evaluate whether it is in the public interest to withhold any proprietary information from discovery or admission into evidence in a federal or state court. In question is the amount of information released with regard to public safety and the legal rights of persons injured in public transportation accidents.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: TRB will issue a report within 18 months of enactment of this Act with the finding of the study in order to increase public transportation safety.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ IMPROVED PUBLIC TRANSPORTATION SAFETY MEASURES

TxDOT Point of Contact: PTN

FAST Act Section and Page Number: 3022, Page 182

Summary of Section: This section directs the Secretary to issue a notice of proposed rulemaking (NPRM) on protecting transit agency staff from the risk of assault.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: Within 90 days of the report issued in compliance with Section 3020, the Secretary should issue the NPRM.

State Actions Required: No action required for state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ PARATRANSIT SYSTEM UNDER FTA APPROVED COORDINATED PLAN

TxDOT Point of Contact: PTN

FAST Act Section and Page Number: 3023, Page 183

Summary of Section: This section permits paratransit providers who service at least 40 agencies providing fixed-route service to continue to use an existing tiered, distance-based fare schedule.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Federal Transit Administration (FTA) may enact these changes internally.

State Actions Required: No action required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ REPORT ON POTENTIAL OF INTERNET OF THINGS

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 3024, Page 183

Summary of Section: This section directs the Secretary to submit to Congress a report on the potential for the Internet of Things to improve transportation services in rural, suburban, and urban areas.

Impact to TxDOT: Although there appears to be no immediate impact, TxDOT may assist in the report creation capturing information from states utilizing innovative transportation systems.

Federal Actions Required: The Federal Transit Administration (FTA) will generate a report to be submitted to Congress within 180 days of enactment.

State Actions Required: States utilizing innovative transportation systems may participate in the survey and report creation.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ AUTHORIZATION OF GRANTS FOR POSITIVE TRAIN CONTROL

TxDOT Point of Contact: RRD

FAST Act Section and Page Number: 3028, Page 184

Summary of Section: This section provides \$199 million available from the Mass Transit Account in FY 2017 which would be applied toward financing the installation of Positive Train Control. The funding is subject to the overall obligation limitation in Section 3018 so the Appropriations Committees will have to reduce other Federal Transit Administration (FTA) spending from the Highway Trust Fund in order to allow the \$199 million to be obligated (or increase the obligation limitation by \$199 million). It also establishes a competitive grant program for expending the funds with an 80 percent maximum funding amount.

Impact to TxDOT: This is a competitive grant program for implementing Positive Train Control on passenger train routes. RRD expects that the local transit entities or their metropolitan areas will apply for these grants. TxDOT may be asked for letters of support by the local entity.

Federal Actions Required: The Secretary will award the grants on a competitive basis. The Secretary may also reserve some of the funds to cover project management oversight and other administrative costs associated with the grants.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

TITLE IV—HIGHWAY TRAFFIC SAFETY

■ AUTHORIZATION OF APPROPRIATIONS

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 4001, Page 186

Summary of Section: This section authorizes Highway Trust Fund contract authority for NTHSA highway safety programs. The Secretary shall establish a single deadline for applications to allow the grants to be awarded early in the next fiscal year. GHSA assumes the July 1 date will not be changed, but unlike MAP-21, no specific date is legislatively provided.

Impact to TxDOT: TxDOT Traffic Safety Section (TRF) will ensure that the July 1 grants deadline does not change.

Federal Actions Required: Funding shall be available for obligation in the same manner as funds apportioned under Title 23, Chapter 1 of the United States Code. The Secretary will establish a deadline for grant applications.

State Actions Required: Some grants may require state matching funds.

Relevant Deadlines for TxDOT and Related Agencies: Traffic Safety (TRF) will proactively work to meet all deadlines and watch for a deadline shift.

Additional Information: None

■ HIGHWAY SAFETY PROGRAMS

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 4002, Page 188

Summary of Section: The Uniform Guidelines are amended to include programs that “increase driver awareness of commercial motor vehicles to prevent crashes and reduce injuries and fatalities.” States with automated traffic enforcement systems shall use Section 402 funds to conduct a biennial survey about the state’s automated traffic enforcement systems, with the survey made available online. The section includes a restriction clause, whereby nothing in the section is to be construed to authorize appropriation or expenditure of funds for non-safety highway projects. This provision requires the Secretary to coordinate with the Governors Highway Safety Association to develop procedures allowing states to submit highway safety plans electronically. It also expands the scope of teen traffic safety to include increasing driver awareness of commercial motor vehicles (CMV) and support for school-based driver’s education classes that improve teen knowledge about safe driving and state GDL requirements.

Impact to TxDOT: Traffic Safety education and outreach campaigns such as “Be Safe. Drive Smart.” already include messages to raise awareness of commercial motor vehicles. Texas does not have automated law enforcement.

Federal Actions Required: Uniform guidelines will be amended.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 4003, Page 189

Summary of Section: The language is amended to state that the Administrator of the National Highway Traffic Safety Administration (NHTSA) shall collaborate on research regarding in-vehicle technology for driver alcohol detection system for safety (DADSS). Funds are specifically allocated to the research in this section so they are no longer drawn from Title 23, Section 405, of the United States Code. Language is also included to require the Secretary to establish guidelines to ensure that drivers participating in data collection activities on drug or alcohol use are informed that participation is voluntary. This section also includes a provision that the federal share may not exceed 100 percent.

Impact to TxDOT: No immediate impact is anticipated for TxDOT.

Federal Actions Required: Research will be conducted by NHTSA and guidelines should be amended with regard to in-vehicle alcohol detection technology.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ HIGH-VISIBILITY ENFORCEMENT PROGRAM

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 4004, Page 189

Summary of Section: Title 23, Section 404, of the United States Code is amended to include the High-Visibility Enforcement Program. This amendment will codify HVE language, which is currently a note in SAFETEA-LU. This section requires the Secretary to establish and administer the HVE program with at least three campaigns to be carried out between FY 2016 and 2020 related to reducing alcohol-impaired driving, reducing drug-impaired driving or increasing seat belts use. It allows the Secretary to use funds for advertising purposes and to coordinate with states to carry out campaigns under certain conditions. It also includes provisions about the use of those funds and a definition of terms.

Impact to TxDOT: Additional funds may be available for the High Visibility Enforcement Program.

Federal Actions Required: A program with at least three campaigns on impaired driving will be established by the Secretary.

State Actions Required: TxDOT will coordinate with USDOT to carry out HVE campaigns.

Relevant Deadlines for TxDOT and Related Agencies: No additional deadlines are indicated for TxDOT.

Additional Information: None

■ NATIONAL PRIORITY SAFETY PROGRAMS

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 4005, Page 190

Summary of Section: Title 23, Section 405(a), of the United States Code is amended by listing various programs aimed at reducing highway deaths and injuries. Funds shall be allocated to: Occupant protection, state traffic safety information system improvements, impaired driving countermeasures, distracted driving, motorcyclist safety, state graduated driver licensing laws, nonmotorized safety, fund transfers, maintenance of such efforts and delegating responsibility to political subdivisions within a state. Various provisions are instated regarding funding eligibility and grant viability for programs that will increase traffic safety.

Impact to TxDOT: No impact for TxDOT is anticipated by these provisions.

Federal Actions Required: No federal action is required.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ TRACKING PROCESS

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 4006, Page 199

Summary of Section: Title 23, Section 412, of the United States Code is amended to require the Secretary to develop a tracking process to identify and mitigate possible systemic issues across states and regional offices by reviewing oversight findings and recommended actions identified in triennial state management reviews.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: USDOT must develop the process which will identify and mitigate possible systemic issues with state management reviews.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ STOP MOTORCYCLE CHECKPOINT FUNDING

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 4007, Page 199

Summary of Section: This section prohibits the use of federal funds for any program that may verify helmet usage or that could create checkpoints to target motorcycle operators or passengers. The House report language indicates the intention is to prohibit motorcycle checkpoints, but much depends on interpretation from the National Highway Traffic Safety Administration (NHTSA).

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Secretary will be limited in granting funds to a state, county, or other local government if those funds could be used for targeting motorcyclists etc.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ MARIJUANA-IMPAIRED DRIVING

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 4008, Page 199

Summary of Section: This section requires the Secretary to conduct a study on marijuana-impaired driving in consult with other federal agencies. This section requires specific issues to be examined and findings to be presented, including recommendations for training law enforcement personnel, creating an impairment standard, and methodologies for increasing data collection. The Secretary is responsible for submitting a congressional report no later than one year after enactment.

Impact to TxDOT: No impact is anticipated for TxDOT as some of these issues are very specific and likely unattainable.

Federal Actions Required: The Secretary will conduct a study on marijuana-impaired driving to include recommendations for effective and efficient methods for training law enforcement personnel and the implementation of an impairment standard for driving under the influence.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ INCREASING PUBLIC AWARENESS OF THE DANGERS OF DRUG-IMPAIRED DRIVING

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 4009, Page 200

Summary of Section: The Administrator of the National Highway Traffic Safety Administration (NHTSA) , in consultation with the Office of National Drug Control Policy (ONDCP), the U.S. Department of Health and Human Services (HHS), State Highway Safety Offices (SHSOs) and other stakeholders shall identify actions that should be undertaken by the Administration to assist states in efforts to increase public awareness about dangers of drug-impaired driving. The NHTSA Administrator is tasked with submitting a congressional report to the Senate Committee on Commerce, Science, and Transportation and to the House Transportation and Infrastructure Committee no later than 60 days after enactment of this Act.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: NHTSA is directed to research efforts to increase public awareness of impaired driving.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ NATIONAL PRIORITY SAFETY PROGRAM GRANT ELIGIBILITY

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 4010, Page 200

Summary of Section: This section requires the Secretary to make the following publicly available online within 60 days of the awarding of grants:

- States that were awarded Section 405 grants of Title 23 of the United States Code
- States that applied for Section 405 grants and were not awarded grants
- States that did not apply for certain Section 405 grants
- List of deficiencies that made a state ineligible for Section 405 grants

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Secretary will publish information regarding the distribution of grants by state to a public website within 60 days of the award.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ DATA COLLECTION

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 4011, Page 201

Summary of Section: This section modifies Section 1906 of SAFETEA-LU by adding a provision regarding the use of grant funds for data collection and evaluation of data results. Grant funds are available under Title 23, Section 403, of the United States Code, whereby the Secretary shall set aside \$7.5 million for each of FY 2017 to 2020. This provision allows the Secretary to reallocate any funds before the last day of each fiscal year to carry out activities under Title 23, Section 403, of the United States Code to ensure that the maximum is obligated for each fiscal year.

Impact to TxDOT: Funds may become available for data collection and evaluation of data results and useful for TxDOT programs.

Federal Actions Required: The Secretary is responsible for setting aside funds of \$7,500,000 for four fiscal years.

State Actions Required: State DOTs will be able to apply for and obligate additional funds as they are made available.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ STUDY ON THE NATIONAL ROADSIDE SURVEY OF ALCOHOL AND DRUG USE BY DRIVERS

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 4012, Page 201

Summary of Section: This section requires the Secretary, no later than 180 days after the U.S. Comptroller General reviews and reports on the overall value of the National Roadside Survey (NRS), the differences between a NRS site and typical law enforcement checkpoints, and the effectiveness of the NRS methodology at protecting the privacy of the driving public. The Secretary will submit a congressional report on progress of the National Highway Traffic Safety Administration (NHTSA) to implement any of its recommendations.

Impact to TxDOT: Impact on TxDOT is not yet determined.

Federal Actions Required: The Secretary will create and submit a report to Congress documenting the results of NHTSA's findings and recommendations.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ BARRIERS TO DATA COLLECTION REPORT

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 4013, Page 202

Summary of Section: Within 180 days of enactment, the Administrator of the National Highway Traffic Safety Administration (NHTSA) should submit a congressional report identifying legal and technical barriers to data collection regarding the use of wireless communication devices while driving, and should provide recommendations on how to address any barriers that exist.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The NHTSA Administrator shall provide a report to the Senate Committee on Commerce, Science, and Transportation and to the House Committee on Transportation and Infrastructure regarding wireless communication use while driving.

State Actions Required: No required action is delegated to state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ EFFECTIVE DATE FOR CERTAIN PROGRAMS

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 4015, Page 202

Summary of Section: Amendments made to Title 23, Sections 164, 402, and 405, of the United States Code shall be effective on October 1, 2016 (notwithstanding any other provision of this Act).

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: No action is required of USDOT.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

TITLE VI—INNOVATION

■ AUTHORIZATION OF APPROPRIATIONS

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 6002, Page 250

Summary of Section: Defines authorizations for Title VI (Innovation). The federal share of the cost of a project or activity carried out using funds (listed below) shall be 80 percent, unless otherwise expressly provided by this Act or otherwise determined by the Secretary. Funding should remain available until expended and not be transferrable except as provided otherwise.

Allocations:

- Highway Research and Development Program: \$125 million for each of FY 2016 – 2020
- Technology and Innovation Deployment Program
 - ◊ FY 2016: \$67 million
 - ◊ FY 2017 – 2010: \$67.5 million each year
- Training and Education: \$24 million for each of FY 2016 – 2020
- Intelligent Transportation Systems Program: \$100 million for each of FY 2016 – 2020
- University Transportation Centers Program:
 - ◊ FY 2016: \$72.5 million
 - ◊ FY 2017 and 2018: \$75 million
 - ◊ FY 2019 and 2020: \$77.5 million
- Bureau of Transportation Statistics: \$26 million for each of FY 2016 – 2020

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: FHWA shall administer programs in consultation with relevant transportation modal administrations.

State Actions Required: No action is required for state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ TECHNOLOGY AND INNOVATION DEPLOYMENT PROGRAM

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 6003, Page 251

Summary of Section: Title 23, Section 503(c)(3), of the United States Code is amended to direct the Secretary to annually issue and publish a report on the costs and benefits from the deployment of new technology and innovations that resulted from the program within this section.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: USDOT will produce an annual report quantifying the costs and benefits of new technologies and innovation deployed.

State Actions Required: States may have the opportunity to provide documentation for costs and benefits of innovation and technological advances in the field.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ **ADVANCED TRANSPORTATION AND CONGESTION MANAGEMENT TECHNOLOGIES DEPLOYMENT**

TxDOT Point of Contact: TRF, TPP

FAST Act Section and Page Number: 6004, Page 251

Summary of Section: Title 23, Section 503(c), of the United States Code is amended to direct the Secretary to establish within six months of enactment, an advanced transportation and congestion management technologies deployment initiative to provide grants to eligible entities to develop model deployment sites for large-scale installation and operation of advanced transportation technologies. The goal is to improve safety, efficiency, system performance, and infrastructure return on investment. It provides for \$60 billion in grant money for each of FY 2016 – 2020.

Impact to TxDOT: TxDOT will monitor deployment of this program for potential application and determine its impact on performance-based planning initiatives in the future.

Federal Actions Required: The Secretary shall establish the program and request applications. Within three years of the award of the first grant, the Secretary shall create a report that describes the effectiveness of grant recipients in meeting their projected deployment plans.

State Actions Required: States may apply for funding through this grant program.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ **INTELLIGENT TRANSPORTATION SYSTEM GOALS**

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 6005, Page 256

Summary of Section: Title 23, Section 514(a), of the United States Code is amended to include the phrase “enhancement of the national freight system and support to national freight policy goals.” at the end of the section.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: No action is required of USDOT.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: TxDOT will monitor for potential future applications.

■ INTELLIGENT TRANSPORTATION SYSTEM PURPOSES

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 6006, Page 256

Summary of Section: Title 23, Section 514(b), of the United States Code is amended to include a provision to assist in the development of cybersecurity research in cooperation with relevant modal administrations - of USDOT and other federal agencies to help prevent hacking, spoofing, and disruption of connected and automated transportation vehicles.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: USDOT and other federal agencies should work together in the development of cybersecurity research.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ INTELLIGENT TRANSPORTATION SYSTEM PROGRAM REPORT

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 6007, Page 256

Summary of Section: Title 23, Section 515(h)(4), of the United States Code is amended to direct the annual Intelligent Transportation System Program report to be made available on the USDOT website on May 1 of each year.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: A report may be generated and made available to the public via the USDOT website.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ INTELLIGENT TRANSPORTATION SYSTEM NATIONAL ARCHITECTURE AND STANDARDS

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 6008, Page 256

Summary of Section: Title 23, Section 517(a)(3), of the United States Code is amended to replace “memberships are comprised of, and represent” with “memberships include representatives of.”

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: No action is required of USDOT.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ COMMUNICATION SYSTEMS DEPLOYMENT REPORT

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 6009, Page 256

Summary of Section: Title 23, Section 518(a), of the United States Code is amended to adjust the deadline of the communication systems deployment report to July 6, 2016. This report shall also be made available to the public.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: USDOT will issue a communication systems deployment report and publish it for public review on the USDOT website.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ INFRASTRUCTURE DEVELOPMENT

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 6010, Page 256

Summary of Section: Title 23, Chapter 5, of the United States Code is amended to add at the end of Section

519 "Infrastructure development," which ensures that funds made available under this chapter will be used primarily for development of ITS infrastructure, equipment, and systems, and to the maximum extent possible will not be used for the construction of physical infrastructure unless completely necessary to the implementation of an intelligent transportation system project.

Impact to TxDOT: This provision designates funds for intelligent transportation system infrastructure, equipment and systems.

Federal Actions Required: No action is required of USDOT or another federal entity.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ DEPARTMENTAL RESEARCH PROGRAMS

TxDOT Point of Contact: RTI

FAST Act Section and Page Number: 6011, Page 257

Summary of Section: Title 49, Section 102(e)(1), of the United States Code to define parameters of ITS research and development. The Secretary may enter into grants and cooperative agreements with federal agencies, states and local government agencies to carry out research activities and encourage innovative solutions to multimodal transportation problems. The federal share for the cost of an activity should not exceed 50 percent unless the Secretary deems it a prudent investment in light of substantial public interest or benefit.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Secretary shall provide coordination and leadership in the review and development of innovative technologies and transportation statistics research. The Secretary is authorized - to expend no more than 1.5 percent of the amounts authorized to be appropriated for the coordination, evaluation, and oversight of the programs administered by the Office of the Assistant Secretary for Research and Technology.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION

TxDOT Point of Contact: RTI

FAST Act Section and Page Number: 6012, Page 259

Summary of Section: This section repeals Title 49, Section 112, of the United States Code which authorizes RITA (the Research and Innovative Technology Administration). RITA has since been abolished via the appropriations process and its functions transferred to OST.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: No action is required of USDOT.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ UNIVERSITY TRANSPORTATION CENTERS

TxDOT Point of Contact: RTI

FAST Act Section and Page Number: 6016, Page 260

Summary of Section: Title 49, Section 5505, of the United States Code is amended to limit institutions to receive one grant per year from the University Transportation Centers (UTC) program. Individual grants are increased from being as large as \$3 to \$4 million. This section also makes other minor changes to the UTC program.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Secretary in consultation with the Assistant Secretary for Research and Technology and the Federal Highway Administrator should solicit grant applications and select recipients for grants based on a set of requirements.

State Actions Required: A consortium of nonprofit institutions of higher education may submit an application for funding. State DOTs may be able to assist with the application process.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ BUREAU OF TRANSPORTATION STATISTICS

TxDOT Point of Contact: RTI

FAST Act Section and Page Number: 6017, Page 264

Summary of Section: This section amends Title 49, Section 6302, of the United States Code to reauthorize the Bureau of Transportation Statistics. The Bureau is independent and the Director should not be required to obtain the approval of any other office or employee of USDOT with respect to the collection or analysis of data or its publication. The Director should also have a significant role in the disposition and allocation of the authorized budget.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Secretary shall direct external support functions for the Bureau. Otherwise, the Director has authority for the Bureau of Transportation Statistics and can operate with autonomy.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ PORT PERFORMANCE FREIGHT STATISTICS PROGRAM

TxDOT Point of Contact: MRD

FAST Act Section and Page Number: 6018, Page 265

Summary of Section: Title 49, Chapter 63, of the United States Code is amended to add a port performance freight statistics program, which would aim to provide nationally consistent measures of performance of the nation's top 25 ports by tonnage, 20-foot equivalent unit, and dry bulk.

Impact to TxDOT: It is unclear what source will be used to determine the top 25 ports for each of the categories listed. Assuming U.S. Army Corps of Engineers data, the nation's top 25 ports (by tonnage) would include Texas ports: Houston, Beaumont, Corpus Christi, Texas City (private), and Port Arthur. The TEU list would only include Houston. A list of the top dry bulk ports in the U.S. has yet to be produced. This version is much less burdensome than previous versions of a port performance program. This version recognizes that a large portion of port data is proprietary, and will require a working group to determine what and how the data will be collected. The working group composition for this program is heavy on labor representation, so it seems the purpose may be more focused on labor issues than impact performance. If so, this is not an issue or challenge in Texas. It is unusual that the working group includes a representative of a specific waterway, the Saint Lawrence Seaway Development Corporation that has oversight over the St. Lawrence Seaway in the Great Lakes. The other representatives are more general in their representation.

Federal Actions Required: The Director of the Bureau of Transportation Statistics shall submit an annual report to Congress (by January 15) that includes statistics on capacity and throughput at the ports. USDOT will establish the Working Group as outlined. Within one year of the Transportation for Tomorrow Act of 2015, the working group should submit its recommendations to the Director.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: A request for nominations was issued February 23, 2016 with a deadline of March 24, 2016. TxDOT supported the nomination of Roger Guenther, Port of Houston Authority Director. The notice of request stated that the Working Group would be established and should make its recommendations on or before December 4, 2016.

■ RESEARCH PLANNING

TxDOT Point of Contact: RTI

FAST Act Section and Page Number: 6019, Page 266

Summary of Section: This section directs that federal transportation research planning should be coordinated by the Office of the Secretary and should be multimodal in nature. It also amends Title 49, Subtitle III, of the United States Code to insert a chapter on research planning which directs the heads of each modal administration to annually submit a comprehensive modal research plan for the upcoming fiscal year. The Assistant Secretary should review these plans to ensure that no research is duplicated. It directs the Secretary to annually publish on a public website a comprehensive database of all research projects and annual budget requests. Finally, it directs the Secretary to develop a five-year transportation research and development plan to guide future federal transportation research and development activities.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Secretary will help identify opportunities in which research could be applied across modes and prevent duplicated efforts and misuse of limited funding.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ SURFACE TRANSPORTATION SYSTEM FUNDING ALTERNATIVES

TxDOT Point of Contact: TRF, RTI

FAST Act Section and Page Number: 6020, Page 271

Summary of Section: This section directs the Secretary to establish a program to provide grants to states to demonstrate user-based alternative revenue mechanisms that utilize a user fee structure to maintain the long-term solvency of the Highway Trust Fund. It provides \$95 million over the life of the bill for such grants. The federal share of the cost of an activity carried out under this section may not exceed 50 percent of the total cost.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Secretary shall establish a program to provide grants to states and ensure that the activities carried out using funds provided meet stipulated objectives. The Secretary should also consider geographic diversity in awarding grants.

State Actions Required: States may apply for grant funds. If selected, a state must submit a report to the Secretary each year to provide feedback on the deployment of funds and possible improvement for future similar programs.

Relevant Deadlines for TxDOT and Related Agencies: FY 2016 proposals were due on May 20, 2016. TxDOT did not submit a grant proposal.

Additional Information: TxDOT, though a member state, did not participate in the Western Road Usage Charge

Consortium multi-state road usage charge pilot program grant proposal.

■ FUTURE INTERSTATE STUDY

TxDOT Point of Contact: TPP, RTI

FAST Act Section and Page Number: 6021, Page 272

Summary of Section: This section directs the Secretary to enter into an agreement with the Transportation Research Board (TRB) to study the actions needed to upgrade and restore the Interstate Highway system to its role as a premier system that meets the growing and shifting demands of the 21st century. A panel of experts should be convened made up of representatives of FHWA, states, planning agencies, motor carrier industry, freight shippers, highway safety groups, and others. The budget for the Highway Research and Development Program provides \$5 million to conduct the study for FY 2016.

Impact to TxDOT: A minimal impact is anticipated for RTI.

Federal Actions Required: The Secretary will enlist the assistance of TRB to conduct the study and determine any need. TRB will provide a full report of findings within three years of enactment to the Secretary, Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure.

State Actions Required: TxDOT and other state DOTs may be called upon to participate in the panel and study process with TRB.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

TITLE VIII—MULTIMODAL FREIGHT TRANSPORTATION

■ MULTIMODAL FREIGHT TRANSPORTATION

TxDOT Point of Contact: TPP, Freight, RRD, MRD FAST Act

Section and Page Number: 8001, Page 293

Summary of Section: This section rewrites Title 49, Subtitle IX, of the United States Code. The Under Secretary of Transportation is directed to establish a national multimodal freight policy and goals to identify infrastructure improvements, policies, and operational innovations. This section also requires USDOT to develop a national multimodal freight strategic plan within two years of enactment and includes identifying major trade gateways, corridors, and strategies for improving corridors. This national freight network must include freight rail systems of the Class I rail lines, Class II and III (short line) railroads that are considered critical to interstate commerce, public ports with over two million short tons per year, the inland and intra-coastal waterway system, the Great Lakes and St. Lawrence Seaway, the 50 biggest cargo airports, and other strategic freight assets. The USDOT Under Secretary should designate a final National Multimodal Freight Network (NMFN) within one year of enactment in compliance with criteria listed in Section 70103, in cooperation with suggestions from states.

The Under Secretary shall use the designation factors to redesignate the network every five years and will encourage states to establish freight advisory committees. Section 70202 requires each state receiving funding under Title 23, Section 167, of the United States Code to develop a comprehensive freight plan. Section 70203 requires USDOT to develop new transportation investment and planning tools and methodologies. Section 70204 provides that nothing in this subtitle provides additional authority to regulate private freight traffic.

Impact to TxDOT: States can propose additional designations to the national networks, when such a designation "...provides service to a grain elevator, an agricultural facility, a mining facility...an intermodal facility, connects to an international port of entry...has been determined by the state to be vital to improving the efficient movement of freight of importance to the economy of the state." TxDOT should consider designating the South Orient Rail Line as part of the NMFN. The South Orient meets the criteria and is a state-owned facility.

This section also requires states to have freight advisory committees and state freight plans. TPP-FIT has established a Freight Mobility Plan that has been adopted by the Commission (as of January 2016) with plans for full implementation and future updates in 2016 and 2017. The TPP-FIT section continues to seek advice and recommendations from an active Freight Advisory Committee that was established in February 2013.

Federal Actions Required: The Under Secretary is responsible for leading the process to develop a national freight strategic plan within two years of enactment and then publish that plan on a public website managed by USDOT. Within one year of enactment, the Under Secretary shall work with states and local governments and other stakeholders to provide notice and an opportunity to comment on a draft system of the National Multimodal Freight Network (NMFN) within one years of enactment.

State Actions Required: Various divisions within TxDOT including RRD, TPP and TPP-FIT are tasked with designating the South Orient Rail Line as part of the national freight network. TxDOT should develop all appropriate documentation regarding designation, including possible Minute Order designation for Texas Transportation Commission Approval. TxDOT will submit documentation and recommendation to USDOT for inclusion in the NMFN designation. TPP-FIT should develop Texas critical rural corridors and critical urban freight corridors to be certified by USDOT and included in the NMFN. TxDOT should ensure that interstates (I-69) undesignated as part of the PHFS are included as priorities in the NMFN and ensure border crossings are also included.

Relevant Deadlines for TxDOT and Related Agencies: TxDOT will work quickly to provide necessary documentation for projects to be included in the development of the NMFN.

Additional Information: The designation of the South Orient Rail Line as part of the national network may aid in grant funding applications and in seeking other funding mechanisms for improvements. The National Freight Network was updated in the new freight plan that was submitted to the Texas Transportation Commission on 11/17/17. The Critical Rural Corridors and the Critical Urban Corridors have been designated and were submitted to FWHA on 1/29/18 for final approval.

TITLE IX—NATIONAL SURFACE TRANSPORTATION AND INNOVATIVE FINANCE BUREAU

■ NATIONAL SURFACE TRANSPORTATION AND INNOVATIVE FINANCE BUREAU

TxDOT Point of Contact: PFD, FIN, SCM

FAST Act Section and Page Number: 9001, Page 301

Summary of Section: A new Section 116 is added to Title 49 of the United States Code to create a new National Surface Transportation and Innovative Finance Bureau within USDOT. The Bureau as it will be referred to will be headed by an Executive Director from SES (appointed by the Secretary with Presidential approval), who shall report to the Under Secretary of Transportation for Policy. The Bureau shall run the innovative financing programs--such as TIFIA, RRIF, and the Nationally Significant Freight and Highway Projects program--and shall perform the role given to the Secretary for private activity bond (PAB) allocation. The Bureau must work to develop innovative financing best practices and to ensure transparency in the application and approval process by requiring value for money analysis for all projects be publicly available. This section directs the Bureau to serve as the USDOT liaison for environmental permitting in order to support project sponsors in the approval process. This section authorizes the Secretary to eliminate any USDOT offices made redundant by the creation of the Bureau. This section also allows a two-year transition period from the date of enactment during which the Secretary may transfer funds from existing offices to the new Bureau.

Impact to TxDOT: The transparency provisions would require TxDOT (if accepting federal assistance or funds) to undergo a value for money analysis or a comparable analysis prior to deciding to advance the project as a public-private partnership. TxDOT would also need to make its analysis and other key terms of the relevant public-private partnership agreement publicly available at an appropriate time. TxDOT may conduct a review, not later than three years after the date of completion of the project, regarding whether the selected private partner is meeting the terms of the relevant public-private partnership agreement and TxDOT should provide a publicly available summary of the total level of federal assistance in such project.

Federal Actions Required: The Bureau intends to provide technical assistance to the eligible entity regarding proposed public-private partnership agreements for transportation facilities, including assistance in performing a value for money analysis or comparable analysis. In addition, the Bureau should provide technical assistance to the eligible entity with compliance of the project with the requirements of the National Environmental Policy Act of 1969 (NEPA) and other relevant federal environmental permits.

State Actions Required: State DOTs are responsible for sponsoring projects and applying for grants. States will need to provide more analysis to the Bureau for research purposes.

Relevant Deadlines for TxDOT and Related Agencies: TxDOT will need to undergo value for money analysis for public private partnerships and conduct a review not later than three years after the date of completion of the project.

Additional Information: In March 2016, TxDOT executed a Concession Comprehensive Development Agreement to develop State Highway 288 in the Houston area.

■ COUNCIL ON CREDIT AND FINANCE

TxDOT Point of Contact: PFD, FIN, SCM

FAST Act Section and Page Number: 9002, Page 307

Summary of Section: A new Section 117 is added to Title 49 of the United States Code to create a new Council on Credit and Finance within USDOT that will review applications for various credit assistance programs, such as TIFIA and the Nationally Significant Freight and Highway Projects program. The Council shall consist of the Deputy and Under Secretaries, the USDOT CFO and General Counsel, and the FHWA, FTA and FRA Administrators, and up to three other at-large USDOT officials. The Council will make recommendations to the Secretary regarding the selection of projects that should receive federal financing or funding assistance and participate in project evaluations.

Impact to TxDOT: The impact of the Council on Credit and Finance on TxDOT is speculative and based on worst case or best case scenarios. This Council creates another layer of review which could slow the process and the receipt of funds, or it could accelerate the process. At the onset, the process may be belabored because presumably, there will be more and varied individuals evaluating applications. Previously, review would have been limited to FHWA.

Federal Actions Required: The Secretary is responsible for creating a Council on Credit and Finance and selecting members to participate in the process to accomplish its goals.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: This provision appears to be an attempt by USDOT to better manage and/or consolidate its processes, decision-making and funds.

TITLE XI—RAIL

SUBTITLE A—AUTHORIZATIONS

■ FEDERAL-STATE PARTNERSHIP FOR STATE OF GOOD REPAIR

TxDOT Point of Contact: RRD

FAST Act Section and Page Number: 11103, Page 312

Summary of Section: This section outlines funding amounts for FY 2016 – 2020 for implementing Section 11302 of this Act, the federal-state “State of Good Repair” (SOGR) grant program.

Impact to TxDOT: No impact is anticipated for TxDOT. This section provides grants for the improvement of rail lines that support intercity passenger rail and specifically mentions rail lines in the Northeast region of the United States. TxDOT would not take any action under this section. If any rail lines were eligible, such as the Trinity Rail Express in Dallas/Fort Worth, those agencies or local governments would pursue that funding.

Federal Actions Required: The Secretary may withhold up to 1 percent for the costs of project management oversight of the grants.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ RESTORATION AND ENHANCEMENT GRANTS

TxDOT Point of Contact: RRD

FAST Act Section and Page Number: 11104, Page 313

Summary of Section: This section provides the authorized funding amounts for FY 2016 – 2020 for the restoration and enhancement grant program described in Section 11303 of this Act.

Impact to TxDOT: No impact is anticipated for TxDOT. This section provides grants for the restoration of passenger rail service on routes where service existed previously, such as Amtrak's Sunset Limited route that operates from Los Angeles through the southwest (including Texas) to New Orleans. Service from New Orleans, Louisiana to Jacksonville, Florida was discontinued following Hurricane Katrina. This program would enable the restoration of service from New Orleans to Jacksonville. The Texas portion of this route is operable and so does not qualify for a grant. No other routes in Texas would qualify at this time.

Federal Actions Required: The Secretary is authorized to distribute funding and may withhold up to 1 percent from the amount appropriated for the project management oversight costs associated with grant process.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

SUBTITLE B—AMTRAK REFORMS

■ 5-YEAR BUSINESS LINE AND ASSET PLANS

TxDOT Point of Contact: RRD

FAST Act Section and Page Number: 11203, Page 319

Summary of Section: A new Section 24320 is added to Title 49 of the United States Code that requires Amtrak to provide a five year business plan to Congress and USDOT by February 15 annually to be "based on funding levels authorized or otherwise available to Amtrak in a fiscal year." In other words, Amtrak can no longer base its business plans on fluid projections of future allocations from Congress. Four business line plans are outlined: Northeast Corridor train services (NEC), state-supported routes operated by Amtrak, - long-distance routes operated by Amtrak, and ancillary services operated by Amtrak. Various minimum contents of the plans are stipulated including Amtrak's objectives and service plan, projected revenues and expenditures, ridership, among others. The new requirements for business line plans take effect February 15, 2017 and the asset line plan requirements take effect on February 15, 2019. Finally, this section repeals Section 204 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA).

Impact to TxDOT: TxDOT may have some involvement with Amtrak and Oklahoma DOT (ODOT) in developing the plan for the state supported Heartland Flyer route between Fort Worth and Oklahoma City.

Federal Actions Required: Amtrak is the primary recipient of delegated responsibility for this section.

State Actions Required: TxDOT may review Amtrak's proposed business plan and coordinate comments with ODOT if a plan is presented.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: The subsidy that Amtrak requests TxDOT to pay for the Heartland Flyer has been increasing while ridership has been decreasing. TxDOT has limited our support to a specific budgeted amount. TxDOT may discontinue support of the Heartland Flyer service in the future.

■ STATE-SUPPORTED ROUTE COMMITTEE

TxDOT Point of Contact: RRD

FAST Act Section and Page Number: 11204, Page 323

Summary of Section: Section 24712 of Title 49 of the United States Code is added requiring USDOT to establish a state-supported route committee of Amtrak, FRA, and states to promote cooperation and planning for rail operations on state-supported Amtrak routes. The committee can only make decisions by unanimous consent. The committee may amend the cost allocation methodology established under Section 209 of PRIIA. Amtrak should provide monthly invoices to states for the operation of state-supported routes. This section provides for Surface Transportation Board binding mediation of disputes between Amtrak and states over invoices and cost allocation. Section 209 of Passenger Rail Investment and Improvement Act (PRIIA) of 2008 is amended by this section as well.

Impact to TxDOT: TxDOT has participated in similar committees established during the enactment of PRIIA.

Federal Actions Required: The Secretary should establish a state-supported route committee for Amtrak.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: TxDOT has very limited support of Amtrak services, consisting of \$2.5 million or less annually for the Heartland Flyer service. Our support of this service may be discontinued at some point in the near future. Other states have agreements with Amtrak which cover frequent commuter service, intercity service, and will be more highly impacted than TxDOT by the decisions of this committee. TxDOT should not participate in order to allow states that are more heavily impacted to have membership and voting rights on the committee.

SUBTITLE C—INTERCITY PASSENGER RAIL POLICY

■ CONSOLIDATED RAIL INFRASTRUCTURE AND SAFETY IMPROVEMENTS

TxDOT Point of Contact: RRD

FAST Act Section and Page Number: 11301, Page 333

Summary of Section: A new Section 24407 is added to Title 49 of the United States Code, creating a new competitive grant program for improvement of passenger and freight rail transportation. Applicants can be states, groups of states, interstate compacts, political subdivisions of states (all of which can apply in partnership with any railroad or rail equipment manufacturer), Amtrak, Class II or III railroads, the Transportation Research Board (TRB), university transportation centers (UTCs), or rail labor organizations. A wide manner of safety and capital projects and programs are eligible for grants. In selecting from applicants, the Secretary should give preference to applicants with a proposed federal share of no more than 50 percent and take other considerations into account. At least 25 percent of grants should be in rural areas and the total federal share of project costs should not exceed 80 percent. Funds appropriated for this competitive grant program shall remain available until expended. Sections 22402, 22403, and 22404 of Title 49 of the United States Code shall not apply to this program.

The Secretary shall allocate “an appropriate portion” which can be defined as the state’s share of the total U.S. freight and passenger rail miles of the program for grants in states without intercity passenger rail service for freight. This section also repeals Sections 20154, 20165, 22108, and 24105, as well as Chapter 225 of Title 49 of the United States Code.

Impact to TxDOT: TxDOT may be moderately impacted by this provision, depending on grant awards. This section gives priority consideration to projects that request 50 percent or less federal grant funds. Many projects in the state rail and freight plans would be eligible to submit if matching funds are identified.

Federal Actions Required: The Secretary is responsible for soliciting applications and selecting eligible recipients to assist in financing the cost of improving passenger and freight rail transportation systems in terms of safety, efficiency, or reliability.

State Actions Required: TxDOT should develop a list of eligible projects and prioritize according to identified funding partnerships. RRD will reach out to railroads and rail districts to determine their interest in the program, any projects they propose for submittal, and any funding contributions that would make a specific project eligible for submission to the grant program.

Relevant Deadlines for TxDOT and Related Agencies: TxDOT should develop a preliminary list of potential projects prior to August 31, 2016.

Additional Information: None

■ FEDERAL-STATE PARTNERSHIP FOR STATE OF GOOD REPAIR

TxDOT Point of Contact: RRD

FAST Act Section and Page Number: 11302, Page 337

Summary of Section: A new Section 24910 of Title 49 of the United States Code is inserted creating a new federal competitive grant program for capital projects to reduce the state of good repair backlog for rail assets by selecting projects to replace, rehabilitate or repair assets used for intercity passenger rail service or projects to improve intercity passenger rail performance. Applicants can be states, groups of states, interstate compacts, political subdivisions of states, Amtrak, or even a combination thereof.

The Secretary shall give preference to applications where Amtrak is not the sole applicant, which do not have a federal share of over 50 percent, and which take into account a variety of cost-benefit analyses. This provision allows the Secretary to issue letters of intent to fund projects which are not legally binding for the federal government. Appropriations shall remain available until expended.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Secretary will develop the grant program which will fund capital projects that reduce the state of good repair backlog for qualified railroad assets. The Secretary will also submit written notification to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure at least 30 days prior to issuing a letter or intent to a grantee.

State Actions Required: States may wish to apply for this grant funding opportunity.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: Provides grants for the improvement of rail lines that support intercity passenger rail. TxDOT would not take any action under this section. If any rail lines were eligible, such as Trinity Rail Express in Dallas/Fort Worth, those agencies or local governments would pursue that funding.

■ RESTORATION AND ENHANCEMENT GRANTS

TxDOT Point of Contact: RRD

FAST Act Section and Page Number: 11303, Page 340

Summary of Section: In this new section, a new competitive grant program is established for operating assistance to initiate, restore, or enhance intercity passenger rail transportation. Applicants can be states, groups of states, interstate compacts, state publicly chartered agencies, political subdivisions of states, or Amtrak or other railroads in partnership with at least one of the above. Priority status will be given to projects that restore service to formerly Amtrak operated routes or to routes where daily service did not previously exist. Operating assistance grants can last no more than three years and cannot be renewed, and no more than six operating assistance grants may be active simultaneously. The federal share cannot exceed 80 percent in the first year, 60 percent in the second and 40 percent in the third.

Impact to TxDOT: Grants can be combined with other federal funding and will probably prove beneficial to existing intercity passenger rail service such as Fort Worth's TRE and possible start-ups such as Lone Star Rail.

Federal Actions Required: The Secretary will develop and implement a program for issuing grants to competitive applicants in order to initiate, restore, or enhance intercity rail passenger transportation.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ GULF COAST RAIL SERVICE WORKING GROUP

TxDOT Point of Contact: RRD, TPP

FAST Act Section and Page Number: 11304, Page 344

Summary of Section: This section directs the Secretary to establish a working group to evaluate the restoration of passenger rail service between New Orleans and Orlando. (Amtrak service was impacted by Hurricane Rita and never restored). Financial assistance will be made available (if necessary) to the working group to perform requested technical analysis of issues.

Impact to TxDOT: Minimal impact is anticipated for TxDOT. Primary involvement should be limited to Amtrak, the Federal Railroad Administration (FRA), the states of Louisiana, Alabama, Georgia, and Florida. TxDOT may become involved since this Amtrak service (known as the Sunset Limited) does operate through Texas.

Federal Actions Required: The Secretary will establish a working group made up of states, Amtrak, FRA, regional planning organization and MPOs, the Southern Rail Commission, and other railroad carriers.

State Actions Required: Impacted states will be called upon to participate in the working group.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: TxDOT would not seek involvement in this working group as the Sunset Limited already operates in the state. Other states may seek our participation in order to leverage funding for restoring service in their states or for other assistance. RRD recommends minimal involvement with this group if asked to join. TxDOT has very little interaction with Amtrak on this route which is limited to queries regarding ridership as information for the state rail plan. No readily identifiable benefit exists for TxDOT in participating in this endeavor.

■ COMPETITION

TxDOT Point of Contact: RRD

FAST Act Section and Page Number: 11307, Page 349

Summary of Section: This section creates a new pilot program (Competitive Passenger Rail Service Pilot Program) that would allow a petitioner to request long-distance passenger rail. Title 49, Section 24711, of the United States Code has been rewritten to require that within 18 months of enactment, USDOT shall implement this competitive procurement selection for the privatization of three Amtrak long-distance passenger rail routes.

Impact to TxDOT: Two long-distance routes traverse Texas, but this should have minimal or no effect on TxDOT as these routes are wholly funded by Amtrak and TxDOT has very little interaction with Amtrak regarding these services.

Federal Actions Required: USDOT to implement competitive procurement selection for up to three Amtrak routes. If the Secretary does not promote this new rule by the deadline, 18 months after the enactment of the Passenger Rail Reform and Investment Act of 2015, the Secretary will need to give reasons for that failure in a written report to congressional committees and again every 90 days thereafter until the rule is complete.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: Amtrak will take the lead on this endeavor.

■ PERFORMANCE-BASED PROPOSALS

TxDOT Point of Contact: RRD

FAST Act Section and Page Number: 11308, Page 353

Summary of Section: This section requires USDOT to issue a request for proposals (RFP) for projects for the financing, design, construction, operation, and maintenance of a high-speed passenger rail system. Proposals must meet any standard established by the Secretary and shall also be designed to reduce existing intercity minimum service times by 25 percent. Within 90 days after the receipt of such proposals, the Secretary shall evaluate them and establish a stakeholder commission with representatives of affected states, municipalities, freight railroads, transit agencies, unions and Amtrak to evaluate each proposal that the Secretary determines satisfies the requirements. Applicants will have the opportunity to present their proposals verbally before the Commission. Once the Commission reports to USDOT, the Secretary shall review the proposals and report the findings to Congress. Funding for this section will need to be verified by the Secretary who should communicate to Congress that USDOT has sufficient resources to adequately pursue this program.

Impact to TxDOT: Eleven designated corridors are listed, including the Gulf Coast Corridor in Texas.

Federal Actions Required: The Secretary shall issue an RFP to design, build, and operate a high-speed rail system. The Secretary should also evaluate proposals within 90 days of receipt.

State Actions Required: States should monitor the RFP process and coordinate resources as necessary. No mandated actions are delegated to states.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: The Gulf Coast High-Speed Rail (HSR) corridor extends from Houston eastward through Louisiana, Alabama, Georgia, and into Florida. This section is basically the eastern portion of the original Amtrak Sunset Limited route. Most of the corridor is in adjoining states.

■ LARGE CAPITAL PROJECT REQUIREMENTS

TxDOT Point of Contact: RRD

FAST Act Section and Page Number: 11309, Page 358

Summary of Section: Title 49, Section 24402, of the United States Code is amended to require that, in the

unlikely event that the Federal Railroad Administration (FRA) is asked to make a grant of more than \$1 billion, applicants must demonstrate their ability to fulfill their specific non-federal share requirements and submit their financial plan.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Secretary will not obligate funding until the non-federal share is accounted for by the applicant. The Secretary will also ensure that maintenance for the project is kept to the level of utility for a period of 20 years. The Secretary may also allow a grantee to engage in at-risk work activities prior to the conclusion of final design if the Secretary deems such work reasonable and necessary.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: TxDOT will not submit a grant application that exceeds \$1 billion. RRD would monitor any such grant applications within the state and take whatever actions were deemed appropriate by the Administration.

■ SMALL BUSINESS PARTICIPATION STUDY

TxDOT Point of Contact: CIV

FAST Act Section and Page Number: 11310, Page 359

Summary of Section: This section requires USDOT to conduct a nationwide study of the disparity and availability of small and disadvantaged business enterprise (DBE) concerns in publicly funded intercity passenger rail projects. USDOT shall provide a report within two years of enactment to the Senate Committee on Commerce, Science, and Transportation as well as the House Committee on Transportation and Infrastructure.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Secretary shall initiate a study within two years of enactment to study DBE concerns with regard to intercity passenger rail projects.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ SHARED-USE STUDY

TxDOT Point of Contact: RRD

FAST Act Section and Page Number: 11311, Page 359

Summary of Section: Within three years of enactment, USDOT shall complete a study of the shared use

of railroad right-of-way by freight and passenger rail systems. The State Supported Route Committee is a designated participant in the study. This section also lists requirements of the study content and report. Within 60 days of the completion of the study, the Secretary will submit a congressional report including the results of the study and any recommendations for further action.

Impact to TxDOT: TxDOT will monitor the study and may participate in an advisory status if asked and approved by Administration. Other states have a more vested interest in this study due to frequent commuter and intercity passenger rail services using freight routes with some state subsidies or other state funding.

Federal Actions Required: The Secretary will initiate a study of the shared use of rail infrastructure within three years of enactment. The Secretary will also handle implementation of any recommendations or findings from such study.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information:

■ DATA AND ANALYSIS

TxDOT Point of Contact: RRD

FAST Act Section and Page Number: 11313, Page 362

Summary of Section: Requires that the Secretary, within three years of enactment, conduct a data needs assessment to improve passenger rail network service and determine the limits of existing data collection techniques. This section gives guidance on data, benefit-cost analysis, and the necessary protection of confidential data.

Impact to TxDOT: TxDOT will monitor the project and may participate if requested and approved. Other states have a more vested interest in their existing systems, but Texas may be a prime candidate for the development of new intercity passenger rail services if funding can be secured for implementation, operations, and maintenance.

Federal Actions Required: The Secretary is responsible for the initiation of a study within three years of enactment.

State Actions Required: No action is directed to states.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ MISCELLANEOUS PROVISIONS

TxDOT Point of Contact: RRD

FAST Act Section and Page Number: 11315, Page 363

Summary of Section: Title 49, Section 22702, of the United States Code is amended to require that state rail plans be resubmitted to the Secretary every four years for acceptance instead of every five years for reapproval by the Secretary. Section 305 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) is also amended to allow organized labor unions on the Northeast Corridor (NEC) equipment pool committee. Provides that a maglev project capable of safe public use in excess of 240 mph shall be eligible for RRIF assistance if it meets the requirements of Sections 502 and 503 of the Railroad Revitalization and Regulatory Reform Act.

Impact to TxDOT: TxDOT should be moderately impacted by the rail plan section. The other sections cited do not apply to TxDOT.

Federal Actions Required: USDOT is responsible for the approval of plans when submitted.

State Actions Required: States will need to submit a revised State Rail Plan to USDOT every four years.

Relevant Deadlines for TxDOT and Related Agencies: Revise and submit rail plan on four year cycle.

Additional Information: None

■ TECHNICAL AND CONFORMING AMENDMENTS

TxDOT Point of Contact: RRD, TRF (Rail Safety)

FAST Act Section and Page Number: 11316, Page 365

Summary of Section: This section amends various sections of Title 49 of the United States Code for safety purposes and to clarify the existing statute.

Impact to TxDOT: As the owner of freight rail facilities in the state, TxDOT may be responsible for ensuring our lessees comply with the law. TRF Rail Safety Section will include the amendments while inspecting that railroads operating in the state comply with the law.

Federal Actions Required: No action is required of USDOT.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

SUBTITLE D—SAFETY

■ HIGHWAY-RAIL GRADE CROSSING SAFETY

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 11401, Page 368

Summary of Section: This section requires the Federal Railroad Administrator to develop a model of a state-specific highway-rail grade crossing action plan and distribute the plan to each state, no later than one year after enactment. No later than 18 months after the Administrator develops and distributes the model plan, the Administrator will promulgate a rule requiring each state to develop and implement a state highway-rail grade

crossing action plan. This section outlines the required state actions for developing and implementing the plan and the list of contents. States shall complete the state plan or address deficiencies no later than 60 days after receipt of the state action plan and notice by the Administrator. The Administrator is directed to submit a congressional report no later than three years after publishing the final rule under Subsection (b)(1), identifying specific strategies identified by states and implementation progress for each state. This section allows the Secretary to utilize funds available under Title 23, Section 130, of the United States Code for states to develop a state highway-rail grade crossing action plan or update state action plan.

Impact to TxDOT: TRF is responsible for developing the state grade crossing safety plan required by the FAST Act; RRD is responsible for overseeing our lessee's compliance with federal regulations regarding grade crossing safety.

Federal Actions Required: The Administrator must develop a model state-specific highway-rail grade crossing action plan to be distributed within one year of enactment. The Administrator will also review the state action plan and either approve or return with comments.

State Actions Required: States should develop and implement a state highway-rail grade crossing action plan which may become conditional to receiving a grant (under Title 49, Chapter 244, of the United States Code).

Relevant Deadlines for TxDOT and Related Agencies: States must complete the plan or make changes to the state action plan within 60 days of receipt of a notice of deficiencies, then states may resubmit.

Additional Information: None

■ PRIVATE HIGHWAY-RAIL GRADE CROSSINGS

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 11402, Page 370

Summary of Section: This section requires the Secretary to conduct a study in consultation with rail carriers about whether limitations or weaknesses exist regarding availability and usefulness for safety purposes of data on private highway-rail grade crossings, and evaluating relevant existing engineering practices. This section lists contents of the study and requires the Secretary to submit a congressional report no later than three years after enactment of this Act outlining the findings from the study and any relevant recommendations.

Impact to TxDOT: The requirement of USDOT to conduct a study of issues regarding private grade crossings could impact TxDOT. There are over 170 private highway-rail grade crossings on the TxDOT-owned South Orient Rail Line.

Federal Actions Required: The Secretary is responsible for conducting a study within three years of enactment.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: RRD will review the study to determine any impacts to the South Orient Rail Line. The results of the study may also impact TRF Rail Safety Inspection program.

■ **STUDY ON USE OF LOCOMOTIVE HORNS AT HIGHWAY-RAIL GRADE CROSSINGS EFFECTIVENESS STUDY**

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 11403, Page 371

Summary of Section: This section requires the Comptroller General to submit a congressional report evaluating the final rule issued on August 17, 2006, titled “Use of Locomotive Horns at Highway-Rail Grade Crossings.” The study should center on its effectiveness as a final rule, benefits and costs of establishing quiet zones, and any barriers to establishing quiet zones.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Comptroller General should submit a report with specific details regarding the efficacy of train horns at highway-rail grade crossings.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ **POSITIVE TRAIN CONTROL AT GRADE CROSSINGS EFFECTIVENESS STUDY**

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 11404, Page 371

Summary of Section: The Secretary must first certify that each Class I railroad carrier and all intercity or commuter rail passenger transportation provider is in compliance with the positive train control (PTC) requirements already in effect under Title 49, Section 20157(a), of the United States Code. This section requires the Secretary to conduct a study regarding possible effectiveness of positive train control and related technologies on reducing collisions at highway-rail grade crossings. Results of the study shall be submitted as a congressional report.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Secretary will certify compliance with PTC requirements under Title 49, Section 20157(a), of the United States Code and then conduct a study on the effectiveness of PTC.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ **BRIDGE INSPECTION REPORTS**

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 11405, Page 371

Summary of Section: Section 417(d) of the Rail Safety Improvement Act of 2008 is amended by adding provisions that publish a version of a bridge inspection report generated under Subsection (b)(5). This section outlines the content of the public version of a bridge report. The Secretary shall provide the report and assistance to facilitate understanding of a bridge inspection report upon reasonable request of a state or political subdivision of a state.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Secretary shall provide a public version and necessary technical assistance to states to facilitate understanding of a bridge inspection report if requested.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ SPEED LIMIT ACTION PLANS

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 11406, Page 372

Summary of Section: This section requires each railroad carrier providing intercity passenger or commuter rail, to survey its entire system and identify each main track location with speed reductions of at least 20 miles per hour from the approach speed of a curve, bridge, or tunnel. This survey must be completed within 90 days after the date of enactment. Railroad carriers must submit an action plan to the Secretary no later than 120 days after the survey is completed and outlines the required content of the action plan. The Secretary must approve or disapprove the submitted action plan within 90 days of submission. A provision exempting track segments whose operations are governed by positive train control (PTC) is also included. The Secretary must submit a congressional report no later than six months after enactment of this Act that details the actions railroad carriers and FRA has taken to evaluate and comply with expectations set.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Secretary will evaluate action plans and submit a congressional report within six months of enactment.

State Actions Required: No action is required of state DOTs

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: This section requires action to be taken by Railroad companies.

■ ALERTERS

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 11407, Page 373

Summary of Section: The Secretary shall promulgate a rule requiring a working alerter in the controlling locomotive of each passenger train in intercity rail passenger or commuter rail.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Secretary may promulgate a rule to specify the essential functionalities of a working alerter in passenger and commuter trains, or choose to allow an alternative technology if judged as a prudent improvement.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ SIGNAL PROTECTION

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 11408, Page 373

Summary of Section: This section requires the Secretary, no later than 18 months after enactment of this Act, to initiate a rulemaking to require that on-track safety regulations include implementation of redundant signal protection for maintenance-of-way work crews who depend on a train dispatcher to provide signal protection. This section includes a provision exempting track segments whose operations are governed by a positive train control system (PTC).

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Secretary must initiate a rule to provide for redundant signal protection or may exempt certain sections of track for which operations utilize positive train control systems as an alternative.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ COMMUTER RAIL TRACK INSPECTIONS

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 11409, Page 373

Summary of Section: This section requires the Secretary to evaluate track inspection regulations to determine if a railroad carrier providing commuter rail passenger transportation on high density commuter railroad lines should be required to inspect those lines in the same manner as required for other commuter railroad lines. The Secretary may promulgate a rule in regards to employee and contractor safety, system capacity etc. This section also outlines regulatory requirements in the event that the Secretary decides to pursue rulemaking. If rulemaking is deemed not necessary, then the Secretary is required to submit a congressional report no later than 18 months after enactment of this Act explaining any reasons for not revising the regulations.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Secretary will set a rule regarding safety inspection on commuter rail lines.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ RECORDING DEVICES

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 11411, Page 375

Summary of Section: This section requires the Secretary to promulgate a rule no later than two years after enactment of the Passenger Rail Reform and Investment Act of 2015, requiring each railroad carrier providing regularly scheduled rail passenger services to install inward- and outward-facing image recording devices in all controlling locomotive cabs and cab car operating compartments. Specific standards are outlined for video recording devices. The Secretary shall establish a process to review and approve or disapprove a device for compliance. Outlines intended uses of such devices and allows the Secretary to exempt any railroad carrier if it is determined that the carrier has implemented an alternative technology that provides an equivalent or greater safety benefit. This section also includes provisions regarding tampering, preservation of data, information protections, and prohibited use. In the event that an image recording device fails to work, railroad operators should replace or repair the faulty camera as soon as possible. This should not inhibit the railroad carriers' ability to operate or provide service.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Secretary will promulgate a rule for rail passenger transportation providers to install inward- and outward-facing cameras on passenger trains.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ RAILROAD POLICE OFFICERS

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 11412, Page 376

Summary of Section: Title 49, Section 28101, of the United States Code is amended to allow a railroad police officer directly employed by or contracted by a rail carrier to transfer to another state or jurisdiction and no later than one year after date of transfer, be certified as a police officer under the laws of that state which is their new primary residence. This section enables a police officer to enforce the laws of their new jurisdiction during an interim one year period. It recognizes that a rail police officer completing a state-recognized police training academy is certified or commissioned as a police officer by that other state. The Secretary must, no later than one year after enactment of this Act, revise regulations permitting a railroad to designate an individual to enforce state laws for protection of railroad property, personnel, passengers, and cargo.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Secretary should revise the rule to accommodate the transfer of railroad police officers between states.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ REPAIR AND REPLACEMENT OF DAMAGED TRACK INSPECTION EQUIPMENT

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 11413, Page 377

Summary of Section: This section permits the Secretary to receive and expend cash, or receive and utilize spare parts and similar items from non-U.S. government sources to repair damages or replace U.S. government-owned automated track inspection cars and equipment.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Secretary is able to expend cash and other resources for maintenance and repair purposes of current railroad infrastructure.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ REPORT ON VERTICAL TRACK DEFLECTION

TxDOT Point of Contact: TRF

FAST Act Section and Page Number: 11414, Page 378

Summary of Section: The Secretary shall submit a congressional report no later than nine months after enactment of this Act, detailing research conducted or procured by the FRA on the development of a system that measures vertical track deflation (VTD) from a moving rail car. The Secretary may choose to develop a plan for installing VTD instrumentation on all remaining FRA automated track inspection program geometry cars within three years of enactment.

Impact to TxDOT: It is possible that TxDOT TRF Rail Safety could benefit from this research.

Federal Actions Required: The Federal Railroad Administration is required to do research and submit a congressional report developing a system that measures vertical track deflation (VTD) from a moving rail car or an automated track inspection program geometry car.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

SUBTITLE E—PROJECT DELIVERY

■ TREATMENT OF IMPROVEMENTS TO RAIL AND TRANSIT UNDER PRESERVATION REQUIREMENTS

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 11502, Page 379

Summary of Section: Title 23, Section 138, of the United States Code is amended by adding provisions regarding improvements to or maintenance, rehabilitation, or operations of historic railroad lines shall not be considered a use of a historic site under Subsection (a). Certain stations, bridges, and tunnels that are no longer in use or have been abandoned are not exempt from the historic site guidelines.

It also amends Title 49, Section 303, of the United States Code by adding provisions regarding improvements to or maintenance, rehabilitation, or operations of transit or railroad lines that are in use or have historically been in use shall not be considered a use of a historic site under Subsection (a). Conditions are listed for exceptions and provisions that clarify certain bridges and tunnels.

Impact to TxDOT: This is a simple housekeeping clarification of applicability of preservation requirements for rail projects which should be beneficial to project delivery for TxDOT. There is potential for these provisions to streamline the environmental process for rail projects.

Federal Actions Required: FRA is required to develop an agreement with the ACHP or regulations.

State Actions Required: States should prepare to comment on rulemaking and develop responsive guidelines.

Relevant Deadlines for TxDOT and Related Agencies: FRA deadline for pilot program is six months after implementation of the FAST Act. Unknown deadline for comment until FRA establishes a comment period.

Additional Information: None

■ EFFICIENT ENVIRONMENTAL REVIEWS

TxDOT Point of Contact: ENV, RRD

FAST Act Section and Page Number: 11503, Page 380

Summary of Section: This section requires the Secretary to apply project development procedures under Title 23, Section 139 of the United States Code to any railroad projects requiring approval of the Secretary under NEPA. This section includes provisions regarding regulations and procedures pertaining to increasing efficiency of review process of railroad projects. The Secretary is permitted to not incorporate any agency regulations and procedures pertaining to railroads that could only feasibly apply to highway projects, public transportation capital projects, and multimodal projects.

The Secretary must, no later than six months after enactment of the Passenger Rail Reform and Investment Act of 2015, survey the FRA's use of categorical exclusions (CE) in transportation projects since 2005, and publish the survey for notice and public comment. The Secretary shall publish a notice of proposed rulemaking, no later than one year after enactment of Passenger Rail Reform and Investment Act of 2015, to propose new and existing categorical exclusions for railroad projects requiring the Secretary's approval under NEPA. This section requires the Secretary to make publicly available a database identifying project-specific information on the use of a CE on any railroad project carried out under this title.

Impact to TxDOT: TxDOT may be required to provide data for this website. Implementation requirements for TxDOT are dependent on implementing regulations.

Federal Actions Required: USDOT will conduct a survey on the use of categorical exclusions (CE) and publish a notice of proposed rulemaking. FRA is required to develop new procedures, review CEs and develop new CEs.

State Actions Required: States should comment on proposed rules when published and comply with regulations when implemented.

Relevant Deadlines for TxDOT and Related Agencies: FRA should develop CEs within six months, while there are no deadlines in place for TxDOT.

Additional Information: None

■ RAILROAD RIGHTS-OF-WAY

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 11504, Page 381

Summary of Section: Title 49, Chapter 242, of the United States Code is amended to add "Section 24202. Railroad rights-of-way." The Secretary, within one year of enactment of the Passenger Rail Reform and Investment Act of 2015, must submit a proposed exemption of railroad rights-of-way from the review to the Advisory Council on Historic Preservation (ACHP) for consideration.

Impact to TxDOT: This provision may allow for potential streamlining of the environmental review process.

Federal Actions Required: FRA shall develop an agreement with ACHP to exempt railroad rights-of-way from the

National Register of Historic Places and develop regulations.

State Actions Required: States should comment on proposed regulations.

Relevant Deadlines for TxDOT and Related Agencies: Deadlines for TxDOT are unknown until FRA establishes a comment period. FRA has one year to propose regulations.

Additional Information: None

SUBTITLE F—FINANCING

■ ELIGIBLE APPLICANTS

TxDOT Point of Contact: RRD

FAST Act Section and Page Number: 11603, Page 383

Summary of Section: Title 45, Section 822(a), of the United States Code is amended to redefine eligible applicants to allow non-railroad entities to apply for RRIF loans, particularly entities that exist solely for the purpose of constructing a rail connection between a plant or facility and a railroad.

Impact to TxDOT: Minimal impact is anticipated for TxDOT.

Federal Actions Required: No action is required of USDOT.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ ELIGIBLE PURPOSES

TxDOT Point of Contact: RRD

FAST Act Section and Page Number: 11604, Page 383

Summary of Section: Section 502(b)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended to expand the definition of eligible purposes to include the reimbursement of planning and design expenses and economic development and transit-oriented development. Section 502(h) as amended directs the Secretary to require loan recipients for transit-oriented development projects within this section to provide a non-federal match of at least 25 percent.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Secretary is now required to certify funding of at least 25 percent from non-federal sources for a transit-oriented development project.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ CREDIT RISK PREMIUMS

TxDOT Point of Contact: RRD

FAST Act Section and Page Number: 11607, Page 387

Summary of Section: This section amends the RRIF loan process to allow a non-federal entity (including states) to fund all or part of the credit risk premium that is required by the RRIF program. All references to cohorts of loans are struck from this section and applicants are allowed to pledge future state or local subsidies or investment-grade ratings on other loans to prove creditworthiness.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: No action is required of USDOT.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: TxDOT would not be involved in this section unless the Administration decided to provide funding for credit risk premiums on federal RRIF loans. This is unlikely and RRD would caution against it.

■ MASTER CREDIT AGREEMENTS

TxDOT Point of Contact: RRD

FAST Act Section and Page Number: 11608, Page 388

Summary of Section: Section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended to allow the Secretary to enter into a Master Credit Agreement that is contingent on all of the conditions for the provision of a direct loan or loan guarantee. One or more dedicated non-federal revenue source that will secure the repayment of each direct loan or loan guarantee must be identified.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Secretary may enter into a master credit agreement contingent upon enumerated conditions.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: TxDOT would not be involved in this section unless the Administration decides to become involved in loans or loan guarantees under the federal RRIF program. This is unlikely and RRD would recommend against it.

■ REPORT ON LEVERAGING RRIF

TxDOT Point of Contact: RRD, PFD

FAST Act Section and Page Number: 11611, Page 389

Summary of Section: This section directs the U.S. Comptroller General to transmit to the House Transportation and Infrastructure Committee and the Senate Committee on Commerce, Science, and Transportation a report that analyzes how the Railroad Rehabilitation and Improvement Financing Program (RRIF) can be used to improve passenger rail infrastructure.

Impact to TxDOT: RRD will review the report that is prepared under this section to analyze any impacts to the state. RRD does not anticipate any impacts to TxDOT as passenger rail service in the state is provided by local/regional interests or Amtrak.

Federal Actions Required: The Comptroller General is responsible for submitting a report on the RRIF program.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

DIVISION D – MISCELLANEOUS

TITLE XLI – FEDERAL PERMITTING IMPROVEMENT

■ FEDERAL PERMITTING IMPROVEMENT COUNCIL

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 41002, Page 432

Summary of Section: This section establishes a Federal Permitting Improvement Steering Council, which will include a Chair appointed by the President and an Agency CERPO from each of the major federal agencies (i.e., Secretaries of Agriculture, Army, Commerce, Interior, Energy, Transportation, and Defense, etc.). The council will be staffed with an Executive Director (appointed by the President) and administrative and research support staff (at an agency designated by the Office of Management and Budget (OMB)). The Council is responsible for creating an inventory of all projects that are pending the environmental review or other federal authorization and develop recommended performance schedules to help move projects forward. The Council will annually issue recommendations for best practices on stakeholder engagement, performance metrics, public and private coordination, transparency, and other items.

Impact to TxDOT: Impact for TxDOT is anticipated to be minimal. TxDOT will have to report covered projects to the federal government under assignment. For other agency projects, such as rail projects, no action will be required unless requested by the federal agency.

Federal Actions Required: With the establishment of this multi-agency council, the Chair and Council members will need to obtain covered project data from agencies, develop performance standards and analyze reviews. The Council will develop recommendations for best practices; collect and manage data and review schedules; develop and publish guidance; create and deliver training materials; and host stakeholder meetings.

State Actions Required: States will need to apply best practices, once developed, and as needed and submit project information for stated “covered projects” as required.

Relevant Deadlines for TxDOT and Related Agencies: There are multiple deadlines: 180 days following enactment to establish covered projects; not less than one year to develop performance schedules; one year to enter recommendations on among other things, transparency, and there may be others. The only one related to TxDOT would be providing a list of covered FHWA projects.

Additional Information: “Covered projects” do not include projects subject to Title 23, Section 139, of the United States Code (any project that requires the approval of the Secretary of Transportation).

■ PERMITTING PROCESS IMPROVEMENT

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 41003, Page 436

Summary of Section: This section outlines a review and monitoring process conducted by the Council’s executive director. Project sponsors are to submit a notice of the initiation of a proposed covered project. The Executive Director is to create an online “Permitting Dashboard” that will serve as a database of existing projects that are pending approval for federal environmental review. Project information includes key dates, involved federal agencies including the “lead” federal agency for each project, and other specific information for both new and existing projects. The lead agency will establish permitting timetables for each project, and provide recommendations to the project sponsor to be sure that the timeline is kept. Great detail is included for permitting timetables including the modification of a timetable after its approval and project completion.

Impact to TxDOT: If a covered project is initiated, this may be impactful for TxDOT.

Federal Actions Required: The federal government will be required to develop the outline of required submissions for project sponsors and the development of the “Permitting Dashboard.”

State Actions Required: Action is required only if a covered project is initiated. As a project sponsor, TxDOT will be required to submit the necessary information to the Executive Director of the council. For projects other than FHWA, TxDOT will submit applications for projects to the Executive Director of the council.

Relevant Deadlines for TxDOT and Related Agencies: The federal government has multiple deadlines for setting up the program and how long it must take to put a project on the Dashboard. No deadlines are established for project sponsors.

Additional Information: “Covered projects” do not include projects subject to Title 23, Section 139, of the United States Code (any project that requires the approval of the Secretary of Transportation).

■ INTERSTATE COMPACTS

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 41004, Page 444

Summary of Section: This section gives consent for three or more contiguous states to enter an interstate compact establishing regional infrastructure development agencies to facilitate authorization and review of covered projects. A regional infrastructure development agency will have the same authorities and responsibilities of a state agency.

Impact to TxDOT: Impact for TxDOT is anticipated to be minimal.

Federal Actions Required: No action is required of USDOT.

State Actions Required: No action is required of states unless an interstate compact is desired.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ COORDINATION OF REQUIRED REVIEWS

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 41005, Page 444

Summary of Section: To integrate environmental reviews and authorizations, each federal agency will be required (to the maximum extent practicable) to work with other agencies so that each covered project is going under one, consolidated federal review. Lead federal agencies can also use documentation, reports, and other materials produced for state approvals for the federal process if appropriate. A lead agency should issue a record of decision or finding of no significant impact. The section outlines a public engagement process for alternative analysis, comments and review process, and processes for identifying and resolving issues that could delay completion of an environmental review or project authorization.

Impact to TxDOT: Texas may be impacted by this provision if TxDOT develops a “covered project.”

Federal Actions Required: USDOT will need to revise the Code of Federal Regulations and develop processes for conducting concurrent environmental reviews for “covered projects.”

State Actions Required: No action is required for Texas unless a “covered project” is developed.

Relevant Deadlines for TxDOT and Related Agencies: The comment period for the draft environmental impact statement (DEIS) can be no less than 45 days and no more than 60 days unless a longer time is agreed to by the lead and cooperating agencies.

Additional Information: None

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■ DELEGATED STATE PERMITTING PROGRAMS

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 41006, Page 447

Summary of Section: This section instructs the lead federal agency for project review to identify best practices as it relates to review processes that are delegated to the states. Best practices may be shared with state, tribal and local authorities for review and to gather input.

Impact to TxDOT: Minimal impact is anticipated for TxDOT.

Federal Actions Required: The council will be publishing best practices and determine with public input whether or not best practices are applicable to permitting under the statute. The federal lead agency will initiate the national process and make model recommendations for state modifications of the applicable permit program to reflect best practices.

State Actions Required: ENV is uncertain if TxDOT has any delegated permits, but they would be submitted to the council to determine applicability and adding best practices in the future.

Relevant Deadlines for TxDOT and Related Agencies: The federal government has no more than two years after enactment to make model recommendations.

Additional Information: None

■ LITIGATION, JUDICIAL REVIEW, AND SAVINGS PROVISION

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 41007, Page 447

Summary of Section: This section outlines the processes for litigation, judicial review, preliminary injunctive relief, and limitations on claims within the provisions of this title for “covered projects.”

Impact to TxDOT: No impact is anticipated for TxDOT unless TxDOT develops a “covered project.”

Federal Actions Required: No action is required by USDOT or EPA.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ REPORTS

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 41008, Page 449

Summary of Section: This section establishes the requirements and timeline for the preparation and submission of congressional reports on an annual basis. Reports should be submitted no later than April 15 each year for 10 years detailing the progress accomplished for the previous fiscal year.

Impact to TxDOT: TxDOT is uncertain of the impact it would have on TxDOT projects under assignment but it could be assumed ENV would still submit the data to FHWA.

Federal Actions Required: The Executive Director is responsible for the preparation of an annual report by assembling data based on the previous year.

State Actions Required: States could be asked for information and data to support the annual report. TxDOT would submit data on non-FHWA projects to the appropriate federal agency.

Relevant Deadlines for TxDOT and Related Agencies: No deadline is given for project sponsors and state agencies. The report to Congress is due no later than April 15 of each year for 10 years. The Comptroller General's report is due no later than three years following enactment of this act.

Additional Information: None

■ FUNDING FOR GOVERNANCE, OVERSIGHT, AND PROCESSING OF ENVIRONMENTAL REVIEWS AND PERMITS

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 41009, Page 449

Summary of Section: This section allows the heads of federal agencies, with guidance from the Office of Management and Budget (OMB), to issue regulations establishing a fee structure for project proponents to reimburse the federal government for reasonable costs incurred in conducting environmental reviews and authorizations for covered projects. The funds raised by such a fee will be used to fund the Council and its staff. The Executive Director in concert with OMB has the authority to transfer amounts in the fund to other agencies to facilitate timely and efficient environmental reviews and authorizations for proposed covered projects.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Council will develop and implement the proposed fee structure and develop the process and procedures for fee collection.

State Actions Required: States may pay for covered project reviews as required.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ APPLICATION

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 41010, Page 450

Summary of Section: This title applies to projects filed under Section 41003 and other projects that are pending before a federal agency 90 days after the date of enactment.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: No action is required of USDOT.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ GAO REPORT

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 41011, Page 450

Summary of Section: Within three years, the U.S. Comptroller General shall submit a report that investigates whether this title could be adapted to streamline permitting processes for smaller projects not only covered projects in this provision.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The U.S. Comptroller General is responsible for generating a report to be submitted to congressional committees by December 2018.

State Actions Required: States may be asked to submit data for analysis and generation of the Comptroller General's report.

Relevant Deadlines for TxDOT and Related Agencies: No deadlines for TxDOT are listed. The Comptroller General should submit a report to Congress no later than three years following enactment.

Additional Information: None

■ SAVINGS PROVISION

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 41012, Page 450

Summary of Section: This section states that nothing in this title amends the National Environmental Policy Act of 1969 (NEPA).

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: No action is required of USDOT or EPA.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ SUNSET

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 41013, Page 450

Summary of Section: This title terminates seven years after enactment of this Act.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: No action is required of USDOT.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None

■ PLACEMENT

TxDOT Point of Contact: ENV

FAST Act Section and Page Number: 41014, Page 451

Summary of Section: This section stipulates that Sections 41001 through 41013 are placed within Title 42, Chapter 55, of the United States Code.

Impact to TxDOT: No impact is anticipated for TxDOT.

Federal Actions Required: The Office of the Law Revision Counsel shall post the revisions to the United States Code.

State Actions Required: No action is required of state DOTs.

Relevant Deadlines for TxDOT and Related Agencies: None

Additional Information: None



Government Affairs Division

FAST ACT

Fixing America's Surface Transportation Act
Implementation Plan