

FEDERAL GOVERNMENT

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**2019-2020
EDUCATIONAL
SERIES**

FEDERAL GOVERNMENT

OVERVIEW

The Federal-Aid Highway Program was created in 1917, making federal funds available to improve the nation's highway system. In response, the states began forming departments of transportation to administer the federal funds. In Texas, federal-aid funds continue to constitute an important component in current funding of highway and transit projects and programs.



Federal-aid transportation programs are subject to administrative and legislative processes that increasingly affect their reliability as a predictable funding source for states and localities. The United States Department of Transportation and the United States Congress have primary influence over the availability and flexibility of federal transportation funds. These two entities control and shape the federal-aid highway and transit programs through the following mechanisms: the reauthorization of programs and funding sources; the creation, administration and funding of discretionary programs; and the annual budget and appropriations process. In each case, the United States Department of Transportation and Congress determine if, when and how states and localities access federal transportation funds.

The federal government collects federal motor fuels taxes through the states (18.4 cents for gasoline and 24.4 cents for diesel). Federal motor fuels taxes are collected and pooled in the Highway Trust Fund and then dedicated to federal-aid highway and transit programs. Highway Trust Fund dollars are distributed to the states in the form of contract authority, primarily through highway and transit formulas as well as through discretionary allocations. The actual dollars are sent to states on a reimbursement basis. Federal-aid program formulas are the most stable and reliable mechanism for distributing these funds. States and local entities rely on this predictability in making transportation

planning decisions. Formula programs change from time to time, so state and local transportation officials have to adjust their programming and processes to remain within adjusted federal rules.

Congress uses authorization acts, currently the Fixing America's Surface Transportation (FAST Act) to incorporate new policies and priorities into the federal transportation program, sometimes resulting in significant changes to the program's focus and complexity. This, combined with static funding levels, requires states to use new project delivery innovations and other funding sources to deliver transportation programs.

In recent years, the shortfall between federal motor fuels tax collections and authorized spending levels has increased as Congress directed more dollars than the motor fuels tax provides. To address this shortfall, Congress has directed revenue from the General Fund to the Highway Trust Fund. For example, the FAST Act authorized a \$70 billion transfer from the General Fund to the Highway Trust Fund.



SURFACE TRANSPORTATION

Background

President Obama signed the FAST ACT on December 4, 2015. The bill authorizes federal surface transportation programs through federal fiscal year 2020. The bill focuses on highways, transit, freight and railroads.

Interstate Highway 69

The FAST Act provides continuity for oversize and overweight (OS/OW) vehicles currently permitted to operate in the future Interstate Highway 69 corridor. The Act states that if any segment in Texas along U.S. Route 59, U.S. Route 77, U.S. Route 281, U.S. Route 84, Texas State Highway 44 or another roadway is to be designated as Interstate Highway 69, an oversize or overweight vehicle that could operate legally on that segment before the date of the designation may continue to operate on that segment.

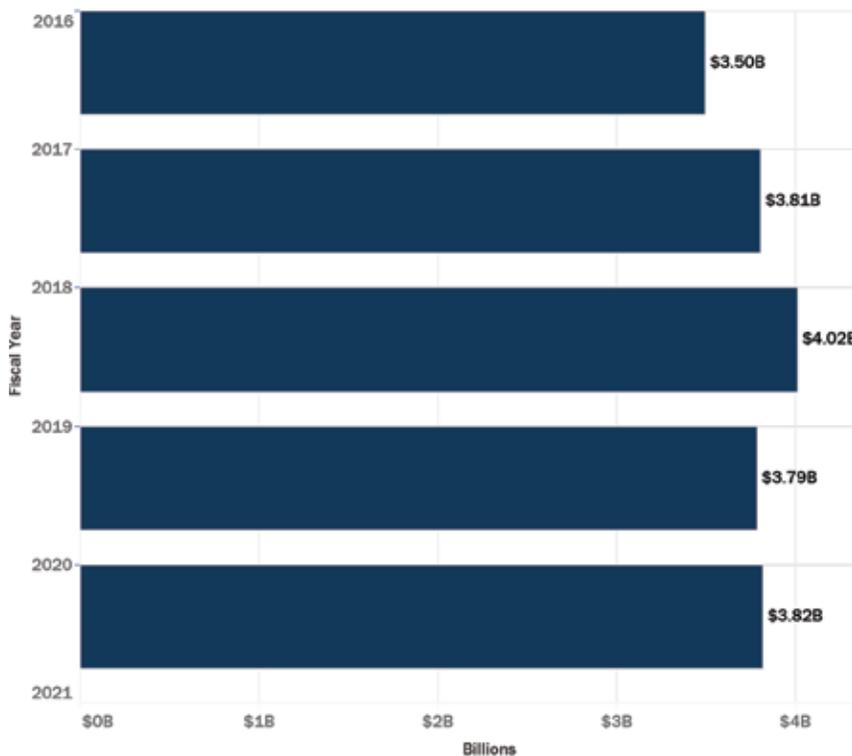
Interstate Highway 14

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

Transportation Infrastructure Finance and Innovation Act

The FAST Act expands eligibility for the Transportation Infrastructure Finance and Innovation Act (or "TIFIA") program by allowing states to use National Highway Performance Program, Surface Transportation Program Block Grant and Nationally Significant Freight and Highway Projects funding to pay the subsidy and administrative costs associated with providing Transportation Infrastructure Finance and Innovation Act 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.

Annual Apportionment of Highway Funds



* Fiscal Year 2018 reflects the additional apportionment from FHWA Notice 4510.826 (4/25/2018), which provided additional apportionment for Highway Infrastructure Program Funds.

The FAST Act makes additional modifications to improve access to the Transportation Infrastructure Finance and Innovation Act program and expand leveraging opportunities. Specifically, it updates the program to enable better utilization by rural areas and more accessibility for small projects. This is accomplished by using the leveraging ability of the program to support state infrastructure banks and allowing the United States Department of Transportation to set aside Transportation Infrastructure Finance and Innovation Act funding in order to replace the fees typically collected from the program to borrowers to pay for independent financial analysis and outside counsel for rural projects.

Transportation Infrastructure Finance and Innovation Act Funding

Year	Dollar Amount
2016	\$275 million
2017	\$275 million
2018	\$285 million
2019	\$300 million
2020	\$300 million

The FAST Act also directs the United States Department of Transportation to establish a streamlined application process for use by an eligible applicant under certain circumstances. It makes transit-oriented development projects eligible to apply for Transportation Infrastructure Finance and Innovation Act loans and reinstates the ability of a state to capitalize their state infrastructure bank with federal-aid highway funds for fiscal years 2016 through 2020.

Lastly, the FAST Act codifies an existing United States Department of Transportation 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.



Surface Transportation Program Block Grant

The FAST Act increases the amount of Surface Transportation Program Block Grant funding that is distributed through Metropolitan Planning Organizations from 50 percent to 55 percent over the life of the bill. The FAST Act provides states and local governments with increased flexibility by rolling the Transportation Alternatives Program into the Surface Transportation Program Block Grant program. It allows 50 percent of certain Transportation Alternatives Program funding to be sub-allocated to local areas and to be used on any program-eligible project.

Congestion Mitigation and Air Quality

The FAST Act expands the flexibility for the use of Congestion Mitigation and Air Quality Improvement Program (or “CMAQ”) funds for rural states. Congestion Mitigation and Air Quality Improvement Program funds may also be used for port-related freight operations and vehicle infrastructure communications equipment.

Federal Discretionary Grants

Congress has directed funding for federal discretionary competitive grant programs on a regular basis since 2010. These programs provide discretion to United States Department of Transportation to solicit applications and award funds to public entities that demonstrate alignment with the overarching goals of a given program.

The current grant programs that the Texas Department of Transportation (TxDOT) and other transportation and municipal entities regularly apply for are:

- The Better Utilizing Investments to Leverage Development Transportation Discretionary Grants Program (or “BUILD”) – Administered by the Federal Highway Administration.
- The Infrastructure for Rebuilding America Discretionary Grant Program (or “INFRA”) – Administered by the Federal Highway Administration.
- The Consolidated Rail Infrastructure and Safety Improvement Grants Program – Administered by the Federal Rail Administration.
- Bus and Bus Facilities Infrastructure Investment Program – Administered by the Federal Transit Administration.
- Capital Investment Grants (5309) – Administered by the Federal Transit Administration.

While application requirements differ between grant programs, common criteria include:

- Strong financial leverage.
- Inclusion in state planning documents.
- Significant completion of design elements, engineering and the environmental approval process.
- Strong support from project stakeholders.



Freight

The FAST Act revises 23 U.S.C. §167 to create a new formula freight program that will direct between \$1.15 billion (in fiscal year 2016) to \$1.50 billion (in fiscal year 2020) per fiscal 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 are designated pursuant to provisions in Section 1116 of the bill). States may obligate up to 10 percent of their total freight apportionment for intermodal or freight rail projects.

In addition to the formula freight program, United States Department of Transportation is administering a new competitive grant program entitled the Nationally Significant Freight and Highway Projects program, more commonly known as the Infrastructure for Rebuilding America Discretionary Grant Program. The grant program is designed to facilitate the construction of infrastructure projects that are difficult to complete solely using existing federal, state, local or private funds. Among other purposes, projects supported by this program will reduce the impact of congestion, generate national and regional economic benefits and facilitate the movement of freight.

Project Delivery and Environmental Streamlining

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

Categorical exclusions were expanded to include multimodal projects and emergency repair projects. In addition, the categorical exclusion for projects with limited federal assistance is now tied to annual inflation.

The act also creates two new programs:

1. A pilot program that allows up to five states to apply state environmental law to environmental reviews instead of National Environmental Policy Act.
2. New Federal Permitting Center, intended to improve the permitting process for surface, aviation, ports and

waterways projects over \$200 million, projects requiring environmental impact statement (or “EIS”) level review or projects requiring permits from more than one federal agency.



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, uses cost-benefit analysis principles for project selection and repeals duplicative grant programs. It authorizes a Federal-State Partnership for State of Good Repair grant program designed to improve critical rail assets with a backlog of deferred maintenance needs. It also authorizes a Restoration and Enhancement Grants 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 railroad-highway 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 FAST 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 changes to the Railroad Rehabilitation and Improvement Financing Program and streamlines the United States Department of Transportation’s Railroad Rehabilitation and Improvement Financing approval process, which will include programmatic features of the successful Transportation Infrastructure Finance and Innovation Act. The provisions are designed to make Railroad Rehabilitation and Improvement Financing a more flexible lender to assist partnerships that combine Railroad Rehabilitation and Improvement Financing loans with other types of financing, including private financing. The provisions also require the transportation secretary to pay back the credit risk premium with interest to a borrower that has repaid its Railroad Rehabilitation and Improvement Financing loan, regardless of whether the loan is or was included in a group. Finally, the FAST Act includes language that modifies general authority to provide direct loans under Railroad Rehabilitation and Improvement Financing to include at least one of the eligible applicants in a joint venture.

Transit

The FAST Act introduces an expedited project delivery for 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 is supported by public-private partnerships.

The FAST 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 and \$344 million per year). The grant program includes a 10 percent rural set-aside and a cap of not more than 10 percent of all grant amounts that 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.



MARITIME

The Water Resources Reform and Development Act of 2014 (or “WRRDA”) included reforms to the United States Army Corps of Engineers programs and instituted streamlining provisions to certain United States Army Corps of Engineers processes. Most significant of these changes for Texas ports and waterways is a mandated increase in expenditures from the Harbor Maintenance Trust Fund for the coming years. Eventual full utilization of the fund should increase maintenance dredging of Texas’ channels and waterways. Water resource bills in 2016 and 2018 built upon and amended the reforms undertaken in the 2014 act.

In addition to Congress’ focus in recent years on the Harbor Maintenance Trust Fund, the water resources bills of 2014, 2016, and 2018 authorize the United States Army Corps of Engineers to carry out several items of interest to Texas, including the authorization for new dredging projects for the following:

- Sabine Neches Waterway Channel (2014).
- Freeport Harbor (2014).
- Port of Brownsville Brazos Island Harbor (2016).
- Houston-Galveston Navigation Channel Extension (2018).

The 2014 bill also provided for an increase in the authorized funding level for dredging the Corpus Christi Ship Channel.

The 2018 Water Resources Development Act includes several positive measures meant to inform Congress for future water resources bills, including:

- National Academy of Sciences study on the future of the United States Army Corps of Engineers.
- Additional requirements for transparency and the involvement of non-federal interests.
- General Accountability Office study on the differing benefit-cost calculation procedures of the United States Army Corps of Engineers and the Office of Management and Budget.
- United States Army Corps of Engineers report on the Harbor Maintenance Trust Fund, which must include on a project-by-project basis the most recent fiscal year for which operations and maintenance activities have been carried out and the cost of those activities.





AVIATION

Almost all aviation programs at the federal level are administered by the Federal Aviation Administration (or “FAA”), which controls the nation’s airspace and is responsible for air traffic.

However, Texas is one of ten Airport Improvement Program block grant states, meaning that instead of the Federal Aviation Administration, TxDOT’s Aviation Division assumes responsibility for administering Airport Improvement Program grants at airports in Texas that are classified as “other than primary” airports, meaning a non-primary reliever or general aviation airport. Each block grant state must adhere to Airport Improvement Program guidelines and is responsible for determining which locations will receive funds for ongoing project administration, repairs, upgrades and construction.

Because Texas is a block grant state, TxDOT’s Aviation Division prepares and the Texas Transportation Commission reviews and approves federal grant funds for more than 180 eligible Texas airports. In the Federal Aviation Administration Reauthorization Act of 2018, block grant states were provided with additional authority that will allow them to keep funds that non-primary airports receive in their respective states upon their expiration (previously these funds were returned to the Federal Aviation Administration).

Another Federal Aviation Administration program important to the Texas aviation community is the Federal Contract Tower Program. Since its inception more than 30 years ago, the Federal Contract Tower Program has been successful in providing low-cost air traffic control services at airports that otherwise would not have received these services and

increased the level of safety at these airports for pilots and the surrounding local communities. The Federal Aviation Administration Reauthorization Act of 2018 includes several reforms to the Federal Contract Tower Program, including defining the parameters for determining a tower’s cost-benefit analysis and lifting the cap on the amount of federal grant funds that can be used for the construction and maintenance of contract towers.

There are currently 254 contract towers nationwide, 23 of which are in Texas. The most recent United States Department of Transportation Inspector General’s report on the Federal Contract Tower Program found that a contract tower costs, on average, about \$1.5 million less to operate than a similar Federal Aviation Administration tower. This difference is mainly due to lower staffing and salary levels at contract towers versus similar Federal Aviation Administration towers. Contract towers also have a significantly lower number and rate of safety incidents compared to similar Federal Aviation Administration towers.



TEXAS DEPARTMENT OF TRANSPORTATION



VALUES:

People

People are the Department's most important customer, asset, and resource. The well-being, safety, and quality of life for Texans and the traveling public are of the utmost concern to the Department. We focus on relationship building, customer service, and partnerships.

Accountability

We accept responsibility for our actions and promote open communication and transparency at all times.

Trust

We strive to earn and maintain confidence through reliable and ethical decision-making.

Honesty

We conduct ourselves with the highest degree of integrity, respect, and truthfulness.

VISION:

A forward-thinking leader delivering mobility, enabling economic opportunity, and enhancing quality of life for all Texans.

MISSION:

Through collaboration and leadership, we deliver a safe, reliable, and integrated transportation system that enables the movement of people and goods.

GOALS AND OBJECTIVES:

- **Deliver the Right Projects** – Implement effective planning and forecasting processes that deliver the right projects on-time and on-budget.
- **Focus on the Customer** – People are at the center of everything we do.
- **Foster Stewardship** – Ensure efficient use of state resources.
- **Optimize System Performance** – Develop and operate an integrated transportation system that provides reliable and accessible mobility, and enables economic growth.
- **Preserve our Assets** – Deliver preventive maintenance for TxDOT's system and capital assets to protect our investments.
- **Promote Safety** – Champion a culture of safety.
- **Value our Employees** – Respect and care for the well-being and development of our employees.



This document is part of an educational series on transportation issues produced by the Texas Department of Transportation. This document, the full Educational Series and other helpful resources can be found online at www.txdot.gov keyword search "State Legislative Affairs".