BACKGROUND

The Federal-Aid Highway Program was created in 1916, making federal funds available to improve the nation’s highway system. In response, the states began forming departments of transportation to take advantage of 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 U.S. Department of Transportation (USDOT) and the U.S. Congress have primary influence over the availability and flexibility of federal transportation funds. These two entities of government control and shape the federal-aid highway and transit programs through the following activities: reauthorization of programs and funding mechanisms; creation, administration and funding of discretionary programs; and the annual budget and appropriations process. In each case, the USDOT and Congress influence 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), above and beyond the state fuel taxes (which, in Texas, is 20 cents). Federal fuel taxes are pooled in the Highway Trust Fund (HTF) and dedicated to the federal-aid highway and transit programs. HTF dollars are distributed to the states primarily through highway and transit formulas and discretionary allocations. Federal-aid program formulas are the most stable and reliable mechanism for distributing these funds, and states and localities rely on this predictability in making transportation planning decisions. Because these programs change from time to time, state and local transportation officials have to adjust their programming and processes to remain within adjusted federal rules.

Congress uses authorization acts — currently Fixing America’s Surface Transportation (FAST) Act — to incorporate new policies into the federal transportation program, sometimes resulting in significant changes to the program’s focus and complexity. These federally imposed policies, combined with static funding, have caused states to consider and use new project delivery innovations and other funding sources to deliver transportation services.

In recent years, the growing gap between federal gas tax collections and authorized federal spending levels has resulted in a shortfall as Congress has authorized more spending than the gas tax brings in. To address this shortfall, Congress has directed revenue from the General Fund to the Highway Trust Fund (HTF). Most recently upon passage, the FAST Act authorized a $70 billion transfer from the general fund to the HTF over its five-year life.

Components of Gasoline Prices per Gallon in Texas

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FIXING AMERICA’S SURFACE TRANSPORTATION (FAST) ACT

Background
On December 4, 2015 the President signed the FAST Act, which authorizes federal surface transportation programs through fiscal year 2020 and focuses on highways, transit, freight and railroads.

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

(Texas Apportionments for Highways under the FAST Act)

<table>
<thead>
<tr>
<th>Year</th>
<th>TIFIA Funding</th>
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<tbody>
<tr>
<td>2016</td>
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Interstate 14
The FAST Act adds the Central Texas Corridor (and designates it Interstate 14) to the High Priority Corridor System. The Central Texas Corridor will commence at the logical terminus of Interstate Route 10, generally following portions of U.S. Route 190 eastward, passing in the vicinity of Fort Hood, Killeen, Belton, Temple, Bryan, College Station, Huntsville, Livingston, and Woodville, to the logical terminus of Texas 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 (TIFIA) program by allowing states to use National Highway Performance Program, Surface Transportation Block Grant Program (STP) and Nationally Significant Freight and Highway Projects (NSFHP) funds 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.

Title II of the FAST Act makes additional modifications to improve access to the TIFIA program and to expand leveraging opportunities. Specifically, it updates the TIFIA program to enable better use by rural areas and more accessibility for small projects. These updates aim to use the leveraging ability of TIFIA to support state infrastructure banks and to allow 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 under certain circumstances. It also makes transit-oriented development projects eligible to apply for TIFIA loans and reinstates the ability of a state to capitalize their state infrastructure bank with their federal-aid highway funds for fiscal years 2016 through 2020.

In addition, the FAST Act codifies an existing USDOT practice of allowing costs related to highway projects delivered by a public-private partnership with an advance construction authorization and coupled with the availability payment concession model to be eligible for federal aid reimbursement.
Managed and High Occupancy Vehicle Lanes
States, including North Carolina, Virginia and Missouri, that have been awarded approval to toll existing portions of the Interstate Highway System as part of a pilot project created in 1998 were 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 (STP)
The FAST Act increases the amount of STP funding that is distributed to local governments 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 STP and by allowing 50 percent of certain transportation alternatives funding sub-allocated to local areas to be used on any STP-eligible project.

Congestion Mitigation and Air Quality (CMAQ)
The FAST Act expands the flexibility for the use of Congestion Mitigation and Air Quality Improvement Program 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 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 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.

In addition to the formula program, USDOT will administer a new competitive grant program entitled the Nationally Significant Freight and Highway Projects (NSFHP) program, more commonly known as the FASTLANE grant program. The FASTLANE grant program will facilitate the construction of infrastructure projects that are difficult to complete solely using existing federal, state, local and private funds. Among other purposes, projects supported by this program will reduce the impact of congestion, generate national and regional economic benefits and facilitate freight movement.

Border Funding
The act allows states that border Canada or Mexico to designate up to 5 percent of their Surface Transportation Block Grant Program funding for border infrastructure projects.

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).

Categorical exclusions were expanded to include multimodal projects and emergency repair projects. Limited federal assistance categorical exclusion is now tied to annual inflation. No conformity process improvements were included.

The FAST Act also creates two new programs:
- A pilot program that allows up to five states to apply state environmental law to environmental reviews instead of NEPA; and
- 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 (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, 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. Additionally, the FAST Act includes requirements to strengthen the safety of passenger rail, including locomotive recording devices, speed limit action plans and locomotive alerters.

The FAST Act amends the Railroad Rehabilitation and Improvement Financing Program (RRIF) to include several provisions designed to unlock this program by streamlining USDOT’s approval processes, mirroring programmatic features similar to the successful TIFIA program to make RRIF a more flexible lender and making it easier to develop partnerships that combine RRIF loans with other types of financing, including private financing. It also requires the Secretary of Transportation (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. The intent of this provision is for the Secretary to pay back such credit risk premium with interest as soon as feasible but not later than three months after the date of enactment. Finally, the FAST 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.

**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 specifically aims to expedite projects with less than 25 percent federal funding that are 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), 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.
MARITIME

The Water Infrastructure Improvements for the Nation (WIIN) Act was enacted in December 2015. It includes the Water Resources Development Act (WRDA) of 2016 as Title I. Most significantly for Texas, it authorizes a new channel deepening project, modifies a second, and provides for three new feasibility studies. Further, it allows for a 75 percent federal cost-share on harbor deepening projects up to 50 feet for new construction. It also requires that annual revenues going toward harbor maintenance will be at least 103 percent of the previous year’s amount.

Prior to the enactment of WIIN, Congress passed the Water Resources Reform and Development Act of 2014 (WRRDA), which included major reforms to U.S. Army Corps of Engineers (Corps) programs, and instituted streamlining effort to certain Corps processes. Most significantly, for Texas ports and waterways is a mandated increase in expenditures from the Harbor Maintenance Trust Fund (HMTF) for the coming years. Eventual full utilization of the HMTF should increase maintenance dredging of Texas’ channels and waterways.

In addition, to WRRDA’s significant emphasis on the HMTF, the bill authorizes the Corps to carry out several items of interest to Texas, including: authorization for new dredging projects for the Sabine Neches Waterway Channel and the Freeport Harbor, and an increase the authorized funding level for dredging the Corpus Christi Ship Channel; authorization for the Corps to conduct an assessment of the operation and maintenance needs of the Gulf Intracoastal Waterway; and, authorization for a pilot program to finance 15 authorized water resources development projects nationwide through public-private partnerships.

WRRDA also increases involvement opportunities for non-federal interests seeking to partner in Corps projects, including authorizing the Corps to accept funds to expedite the processing of permits; increasing involvement in study, design and construction of water resources projects; and, allowing the contribution of funds toward the construction of authorized projects. In addition WRRDA aims to accelerate Corps studies and reviews by requiring early coordination and establishing deadlines.

AVIATION

Almost all aviation programs at the federal level are administered by the Federal Aviation Administration (FAA), which controls the nation’s airspace and is responsible for air traffic. However, Texas is one of ten Airport Improvement Program (AIP) Block Grant States, meaning that instead of the FAA, TxDOT assumes responsibility for administering AIP 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 is responsible for determining which locations will receive funds for ongoing project administration, repairs, upgrades, and construction, and must adhere to AIP guidelines.

As a Block Grant State, TxDOT prepares and the Texas Transportation Commission reviews and approves federal grant funds for more than 180 eligible Texas airports. Another FAA program important to Texas is the Federal Contract Tower (FCT) Program. Since its inception 30 years ago, the FCT Program has been successful in providing low-cost air traffic control services at airports that otherwise would not have received these services, increasing the level of safety at these airports for pilots and the surrounding local communities. There are currently 252 contract towers nationwide, 23 of which are in Texas. The most recent U.S. DOT Inspector General’s report on the FCT Program found that a contract tower costs, on average, about $1.5 million less to operate than a similar FAA tower. This difference was mainly due to lower staffing and salary levels at contract towers versus similar FAA towers. Also, contract towers had a significantly lower number and rate of safety incidents compared to similar FAA towers.
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.