

## APPENDIX C: Relevant Sections of Transportation Law

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#### A. Title 23

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### § 204. Federal Lands Highways Program

#### (a) Establishment.—

**(1) In general.**— Recognizing the need for all Federal roads that are public roads to be treated under uniform policies similar to the policies that apply to Federal-aid highways, there is established a coordinated Federal lands highways program that shall apply to public lands highways, park roads and parkways, and Indian reservation roads and bridges.

**(2) Transportation planning procedures.**— In consultation with the Secretary of each appropriate Federal land management agency, the Secretary shall develop, by rule, transportation planning procedures that are consistent with the metropolitan and statewide planning processes required under sections 134 and 135.

**(3) Approval of transportation improvement program.**— The transportation improvement program developed as a part of the transportation planning process under this section shall be approved by the Secretary.

**(4) Inclusion in other plans.**— All regionally significant Federal lands highways program projects—  
**(A)** shall be developed in cooperation with States and metropolitan planning organizations; and  
**(B)** shall be included in appropriate Federal lands highways program, State, and metropolitan plans and transportation improvement programs.

**(5) Inclusion in state programs.**— The approved Federal lands highways program transportation improvement program shall be included in appropriate State and metropolitan planning organization plans and programs without further action on the transportation improvement program.

**(6) Development of systems.**— The Secretary and the Secretary of each appropriate Federal land

management agency shall, to the extent appropriate, develop by rule safety, bridge, pavement, and congestion management systems for roads funded under the Federal lands highways program.

**(b)** Funds available for public lands highways, park roads and parkways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay for the cost of transportation planning, research, engineering, and construction of the highways, roads, and parkways, or of transit facilities within public lands, national parks, and Indian reservations. In connection with activities under the preceding sentence, the Secretary and the Secretary of the appropriate Federal land management agency may enter into construction contracts and other appropriate contracts with a State or civil subdivision of a State or Indian tribe. In the case of Indian reservation roads, Indian labor may be employed in such construction and improvement under such rules and regulations as may be prescribed by the Secretary of the Interior. No ceiling on Federal employment shall be applicable to construction or improvement of Indian reservation roads. Funds available for each class of Federal lands highways shall be available for any kind of transportation project eligible for assistance under this title that is within or adjacent to or provides access to the areas served by the particular class of Federal lands highways. The Secretary of Interior may reserve funds from the Bureau of Indian Affairs' administrative funds associated with the Indian reservation roads program to finance the Indian technical centers authorized under section 504 (b).

**(c)** Before approving as a project on an Indian reservation road any project eligible for funds apportioned under section 104 or section 144 of this title in a State, the Secretary must determine that the obligation of funds for such project is supplementary to and not in lieu of the obligation, for projects on Indian reservation roads, of a fair and equitable share of funds apportioned to such State under section 104 of this title. Notwithstanding any other provision of this title, Indian reservation roads under the jurisdiction of the Bureau of Indian Affairs of the Department of the Interior shall be eligible to expend not more than 15 percent funds <sup>[1]</sup> apportioned for Indian reservation roads from the Highway Trust Fund for the purpose of road sealing projects. The Bureau of Indian Affairs shall continue to retain responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations.

**(d)** Cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement, and any funds received from a State, county, or local subdivision shall be credited to appropriations available for the class of Federal lands highways to which such funds were contributed.

**(e)** Construction of each project shall be performed by contract awarded by competitive bidding, unless the Secretary or the Secretary of the appropriate Federal land management agency shall affirmatively find that, under the circumstances relating to such project, some other method is in the public interest. Notwithstanding the foregoing, the provisions of section 23 of the "Buy Indian" Act of June 25, 1910 (36 Stat. 891), and the provisions of section 7(b) of the Indian Self-Determination and Education Assistance Act (88 Stat. 2205) shall apply to all funds administered by the Secretary of the Interior which are appropriated for the construction and improvement of Indian reservation roads.

**(f)** All appropriations for the construction and improvement of each class of Federal lands highways shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the appropriate Federal land managing agency.

**(g)** The Secretary shall transfer to the Secretary of Agriculture from appropriations for forest highways such amounts as may be needed to cover necessary administrative expenses of the Forest Service in connection with forest highways.

**(h) Eligible Projects.**— Funds available for each class of Federal lands highways may be available for the following:

**(1)** Transportation planning for tourism and recreational travel including the National Forest Scenic Byways Program, Bureau of Land Management Back Country Byways Program, National Trail System Program, and other similar Federal programs that benefit recreational development.

**(2)** Adjacent vehicular parking areas.

**(3)** Interpretive signage.

**(4)** Acquisition of necessary scenic easements and scenic or historic sites.

**(5)** Provision for pedestrians and bicycles.

**(6)** Construction and reconstruction of roadside rest areas including sanitary and water facilities.

**(7)** Other appropriate public road facilities such as visitor centers as determined by the Secretary.

**(8)** A project to build a replacement of the federally owned bridge over the Hoover Dam in the Lake Mead National Recreation Area between Nevada and Arizona.

**(i) Transfers of Costs to Secretaries of Federal Land Management Agencies.—**

**(1) Administrative costs.—** The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for public lands highways such amounts as are necessary to pay necessary administrative costs of the agency in connection with public lands highways.

**(2) Transportation planning costs.—** The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for public lands highways such amounts as are necessary to pay the cost to the agency to conduct necessary transportation planning for Federal lands, if funding for the planning is not otherwise provided under this section.

**(j) Indian Reservation Roads Planning.—** Up to 2 percent of funds made available for Indian reservation roads for each fiscal year shall be allocated to those Indian tribal governments applying for transportation planning pursuant to the provisions of the Indian Self-Determination and Education Assistance Act. The Indian tribal government, in cooperation with the Secretary of the Interior, and as appropriate, with a State, local government, or metropolitan planning organization, shall carry out a transportation planning process in accordance with subsection (a). Projects shall be selected by the Indian tribal government from the transportation improvement program and shall be subject to the approval of the Secretary of the Interior and the Secretary.

**(k) Refuge Roads.—**

**(1) In general.—** Notwithstanding any other provision of this title, funds made available for refuge roads shall be used by the Secretary and the Secretary of the Interior only to pay the cost of—

**(A)** maintenance and improvements of refuge roads;

**(B)** maintenance and improvements of eligible projects described in paragraphs (2), (5), and (6) of subsection (h) that are located in or adjacent to wildlife refuges; and

**(C)** administrative costs associated with such maintenance and improvements.

**(2) Contracts.—** In carrying out paragraph (1), the Secretary and the Secretary of the Interior, as appropriate, may enter into contracts with a State or civil subdivision of a State or Indian tribe as is determined advisable.

**(3) Compliance with other law.—** Funds made available for refuge roads shall be used only for projects that are in compliance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

[1] So in original. Probably should be “of funds”.

## **§ 134. Metropolitan planning**

**(a) General Requirements.—**

**(1) Findings.—** It is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and through urbanized areas, while minimizing transportation-related fuel consumption and air pollution.

**(2) Development of plans and programs.—** To accomplish the objective stated in paragraph (1), metropolitan planning organizations designated under subsection (b), in cooperation with the State and public transit operators, shall develop transportation plans and programs for urbanized areas of the State.

**(3) Contents.—** The plans and programs for each metropolitan area shall provide for the development

and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan area and as an integral part of an intermodal transportation system for the State and the United States.

**(4) Process of development.**— The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

**(b) Designation of Metropolitan Planning Organizations.**—

**(1) In general.**— To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

**(A)** by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census); or

**(B)** in accordance with procedures established by applicable State or local law.

**(2) Structure.**— Each policy board of a metropolitan planning organization that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of—

**(A)** local elected officials;

**(B)** officials of public agencies that administer or operate major modes of transportation in the metropolitan area (including all transportation agencies included in the metropolitan planning organization as of June 1, 1991); and

**(C)** appropriate State officials.

**(3) Limitation on statutory construction.**— Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on the date of the enactment of this section, of a public agency with multimodal transportation responsibilities to—

**(A)** develop plans and programs for adoption by a metropolitan planning organization; and

**(B)** develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

**(4) Continuing designation.**— A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

**(5) Redesignation.**—

**(A) Procedures.**— A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) as appropriate to carry out this section.

**(B) Certain requests to redesignate.**— A metropolitan planning organization shall be redesignated upon request of a unit or units of general purpose local government representing at least 25 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) in any urbanized area

**(i)** whose population is more than 5,000,000 but less than 10,000,000, or

**(ii)** which is an extreme nonattainment area for ozone or carbon monoxide as defined under the Clean Air Act. Such redesignation shall be accomplished using procedures established by subparagraph (A).

**(6) Designation of more than 1 metropolitan planning organization.**— More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

**(c) Metropolitan Planning Area Boundaries.—**

**(1) In general.—** For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

**(2) Included area.—** Each metropolitan planning area—

**(A)** shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period; and

**(B)** may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

**(3) Existing metropolitan planning areas in nonattainment.—** Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of this paragraph shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (b)(5).

**(4) New metropolitan planning areas in nonattainment.—** In the case of an urbanized area designated after the date of enactment of this paragraph as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

**(A)** shall be established in the manner described in subsection (b)(1);

**(B)** shall encompass the areas described in paragraph (2)(A);

**(C)** may encompass the areas described in paragraph (2)(B); and

**(D)** may address any nonattainment area identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

**(d) Coordination in Multistate Areas.—**

**(1) In general.—** The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

**(2) Interstate compacts.—** The consent of Congress is granted to any 2 or more States—

**(A)** to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

**(B)** to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

**(3) Lake tahoe region.—**

**(A) Definition.—** In this paragraph, the term “Lake Tahoe region” has the meaning given the term “region” in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96–551 (94 Stat. 3234).

**(B) Transportation planning process.—** The Secretary shall—

**(i)** establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

**(ii)** coordinate the transportation planning process with the planning process required of State and local governments under this section, section 135, and chapter 53 of title 49.

**(C) Interstate compact.—**

**(i) In general.—** Subject to clause (ii), notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by

applicable State or local law.

**(ii) Involvement of federal land management agencies.—**

**(I) Representation.—** The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

**(II) Funding.—** In addition to funds made available to the metropolitan planning organization under other provisions of this title and under chapter 53 of title 49, not more than 1 percent of the funds allocated under section 202 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

**(D) Activities.—** Highway projects included in transportation plans developed under this paragraph—

**(i)** shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

**(ii)** may, in accordance with chapter 2, be funded using funds allocated under section 202.

**(4) Recipients of other assistance.—** The Secretary shall encourage each metropolitan planning organization to coordinate, to the maximum extent practicable, the design and delivery of transportation services within the metropolitan planning area that are provided—

**(A)** by recipients of assistance under chapter 53 of title 49; and

**(B)** by governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services.

**(e) Coordination of MPOs.—**

**(1) Nonattainment areas.—** If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and programs required by this section.

**(2) Project located in multiple mpos.—** If a project is located within the boundaries of more than 1 metropolitan planning organization, the metropolitan planning organizations shall coordinate plans regarding the project.

**(f) Scope of Planning Process.—**

**(1) In general.—** The metropolitan transportation planning process for a metropolitan area under this section shall provide for consideration of projects and strategies that will—

**(A)** support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

**(B)** increase the safety and security of the transportation system for motorized and nonmotorized users;

**(C)** increase the accessibility and mobility options available to people and for freight;

**(D)** protect and enhance the environment, promote energy conservation, and improve quality of life;

**(E)** enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

**(F)** promote efficient system management and operation; and

**(G)** emphasize the preservation of the existing transportation system.

**(2) Failure to consider factors.—** The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a transportation improvement plan, a project or strategy, or the certification of a planning process.

**(g) Development of Long-Range Transportation Plan.—**

**(1) In general.—** Each metropolitan planning organization shall prepare, and update periodically,

according to a schedule that the Secretary determines to be appropriate, a long-range transportation plan for its metropolitan area in accordance with the requirements of this subsection.

**(2) Long-range transportation plan.**— A long-range transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

**(A)** An identification of transportation facilities (including but not necessarily limited to major roadways, transit, and multimodal and intermodal facilities) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the long-range transportation plan, the metropolitan planning organization shall consider factors described in subsection (f) as such factors relate to a 20-year forecast period.

**(B)** A financial plan that demonstrates how the adopted long-range transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted long-range transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the long-range transportation plan, the metropolitan planning organization and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

**(C)** Assess capital investment and other measures necessary to—

**(i)** ensure the preservation of the existing metropolitan transportation system, including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization, and rehabilitation of existing and future transit facilities; and

**(ii)** make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods.

**(D)** Indicate as appropriate proposed transportation enhancement activities.

**(3) Coordination with clean air act agencies.**— In metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act, the metropolitan planning organization shall coordinate the development of a long-range transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

**(4) Participation by interested parties.**— Before approving a long-range transportation plan, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the long-range transportation plan, in a manner that the Secretary deems appropriate.

**(5) Publication of long-range transportation plan.**— Each long-range transportation plan prepared by a metropolitan planning organization shall be—

**(i)** published or otherwise made readily available for public review; and

**(ii)** submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

**(6) Selection of projects from illustrative list.**— Notwithstanding paragraph (2)(B), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B).

**(h) Metropolitan Transportation Improvement Program.**—

**(1) Development.**—

**(A) In general.**— In cooperation with the State and any affected public transit operator, the metropolitan planning organization designated for a metropolitan area shall develop a transportation improvement program for the area for which the organization is designated.

**(B) Opportunity for comment.**— In developing the program, the metropolitan planning organization, in

cooperation with the State and any affected public transit operator, shall provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the proposed program.

**(C) Funding estimates.**— For the purpose of developing the transportation improvement program, the metropolitan planning organization, public transit agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

**(D) Updating and approval.**— The program shall be updated at least once every 2 years and shall be approved by the metropolitan planning organization and the Governor.

**(2) Contents.**— The transportation improvement program shall include—

**(A)** a priority list of proposed federally supported projects and strategies to be carried out within each 3-year period after the initial adoption of the transportation improvement program; and

**(B)** a financial plan that—

**(i)** demonstrates how the transportation improvement program can be implemented;

**(ii)** indicates resources from public and private sources that are reasonably expected to be available to carry out the program;

**(iii)** identifies innovative financing techniques to finance projects, programs, and strategies; and

**(iv)** may include, for illustrative purposes, additional projects that would be included in the approved transportation improvement program if reasonable additional resources beyond those identified in the financial plan were available.

**(3) Included projects.**—

**(A) Projects under this chapter and chapter 53 of title 49.**— A transportation improvement program developed under this subsection for a metropolitan area shall include the projects and strategies within the area that are proposed for funding under this chapter and chapter 53 of title 49.

**(B) Projects under chapter 2.**—

**(i) Regionally significant projects.**— Regionally significant projects proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.

**(ii) Other projects.**— Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

**(C) Consistency with long-range transportation plan.**— Each project shall be consistent with the long-range transportation plan developed under subsection (g) for the area.

**(D) Requirement of anticipated full funding.**— The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

**(4) Notice and comment.**— Before approving a transportation improvement program, a metropolitan planning organization shall, in cooperation with the State and any affected public transit operator, provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

**(5) Selection of projects.**—

**(A) In general.**— Except as otherwise provided in subsection (i)(4) and in addition to the transportation improvement program development required under paragraph (1), the selection of federally funded projects in metropolitan areas shall be carried out, from the approved transportation improvement program—

**(i)** by—

**(I)** in the case of projects under this chapter, the State; and

**(II)** in the case of projects under chapter 53 of title 49, the designated transit funding recipients; and

(ii) in cooperation with the metropolitan planning organization.

**(B) Modifications to project priority.**— Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project in the program.

**(6) Selection of projects from illustrative list.**—

**(A) No required selection.**— Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

**(B) Required action by the secretary.**— Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved transportation improvement program.

**(7) Publication.**—

**(A) Publication of transportation improvement programs.**— A transportation improvement program involving Government participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

**(B) Publication of annual listings of projects.**— An annual listing of projects for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the metropolitan planning organization for public review. The listing shall be consistent with the categories identified in the transportation improvement program.

**(i) Transportation Management Areas.**—

**(1) Designation.**—

**(A) Required designations.**— The Secretary shall designate as a transportation management area each urbanized area with a population of over 200,000 individuals.

**(B) Designations on request.**— The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

**(2) Transportation plans and programs.**— Within a transportation management area, transportation plans and programs shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and transit operators.

**(3) Congestion management system.**— Within a transportation management area, the transportation planning process under this section shall include a congestion management system that provides for effective management of new and existing transportation facilities eligible for funding under this title and chapter 53 of title 49 through the use of travel demand reduction and operational management strategies. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section.

**(4) Selection of projects.**—

**(A) In general.**— All federally funded projects carried out within the boundaries of a transportation management area under this title (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program) or under chapter 53 of title 49 shall be selected for implementation from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

**(B) National highway system projects.**— Projects carried out within the boundaries of a transportation management area on the National Highway System and projects carried out within such boundaries under the bridge program or the Interstate maintenance program shall be selected for implementation from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.

**(5) Certification.—**

**(A) In general.—** The Secretary shall—

**(i)** ensure that the metropolitan planning process in each transportation management area is being carried out in accordance with applicable provisions of Federal law; and

**(ii)** subject to subparagraph (B), certify, not less often than once every 3 years, that the requirements of this paragraph are met with respect to the transportation management area.

**(B) Requirements for certification.—** The Secretary may make the certification under subparagraph (A) if—

**(i)** the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

**(ii)** there is a transportation improvement program for the area that has been approved by the metropolitan planning organization and the Governor.

**(C) Effect of failure to certify.—**

**(i) Withholding of funds.—** If a metropolitan planning process is not certified, the Secretary may withhold up to 20 percent of the apportioned funds attributable to the transportation management area under this title and chapter 53 of title 49.

**(ii) Restoration of withheld funds.—** The withheld apportionments shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary.

**(iii) Feasibility of private enterprise participation.—** The Secretary shall not withhold certification under this paragraph based on the policies and criteria established by a metropolitan planning organization or transit grant recipient for determining the feasibility of private enterprise participation in accordance with section 5306 (a) of title 49.

**(D) Review of certification.—** In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

**(j) Abbreviated Plans and Programs for Certain Areas.—**

**(1) In general.—** Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated long-range transportation plan and transportation improvement program for the metropolitan area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

**(2) Nonattainment areas.—** The Secretary may not permit abbreviated plans or programs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

**(k) Transfer of Funds.—** Funds made available for a highway project under chapter 53 of title 49 shall be transferred to and administered by the Secretary in accordance with the requirements of this title. Funds made available for a transit project under the Federal-Aid Highway Act of 1991 shall be transferred to and administered by the Secretary in accordance with the requirements of chapter 53 of title 49. The provisions of title 23, United States Code, regarding the non-Federal share shall apply to title 23 funds used for transit projects and the provisions of chapter 53 of title 49 regarding non-Federal share shall apply to chapter 53 funds used for highway projects.

**(l) Additional Requirements for Certain Nonattainment Areas.—**

**(1) In general.—** Notwithstanding any other provisions of this title or chapter 53 of title 49, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be programmed in such area for any highway project that will result in a significant increase in carrying capacity for single-occupant vehicles unless the project is part of an approved congestion management system.

**(2) Applicability.—** This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (c).

**(m) Limitation on Statutory Construction.**— Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this title or chapter 53 of title 49.

**(n) Funding.**—

**(1) In general.**— Funds set aside under section 104 (f) of this title to carry out sections 5303 through 5305 of title 49 shall be available to carry out this section.

**(2) Unused funds.**— Any funds that are not used to carry out this section may be made available by the metropolitan planning organization to the State to fund activities under section 135.

**(o) Continuation of Current Review Practice.**— Since plans and programs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the plans and programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and programs described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a plan or program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

## § 135. Statewide planning

**(a) General Requirements.**—

**(1) Findings.**— It is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and through urbanized areas, while minimizing transportation-related fuel consumption and air pollution.

**(2) Development of plans and programs.**— Subject to section 134 of this title and sections 5303 through 5305 of title 49, each State shall develop transportation plans and programs for all areas of the State.

**(3) Contents.**— The plans and programs for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

**(4) Process of development.**— The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

**(b) Coordination With Metropolitan Planning; State Implementation Plan.**— In carrying out planning under this section, a State shall coordinate such planning with the transportation planning activities carried out under section 134 of this title and sections 5303 through 5305 of title 49 for metropolitan areas of the State and shall carry out its responsibilities for the development of the transportation portion of the State implementation plan to the extent required by the Clean Air Act.

**(c) Scope of Planning Process.**—

**(1) In general.**— Each State shall carry out a transportation planning process that provides for consideration of projects and strategies that will—

**(A)** support the economic vitality of the United States, the States, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

**(B)** increase the safety and security of the transportation system for motorized and nonmotorized users;

**(C)** increase the accessibility and mobility options available to people and for freight;

**(D)** protect and enhance the environment, promote energy conservation, and improve quality of life;

**(E)** enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

**(F)** promote efficient system management and operation; and

**(G)** emphasize the preservation of the existing transportation system.

**(2) Failure to consider factors.**— The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a transportation improvement plan, a project or strategy, or the certification of a planning process.

**(d) Additional Requirements.**— In carrying out planning under this section, each State shall, at a minimum, consider—

- (1)** with respect to nonmetropolitan areas, the concerns of local elected officials representing units of general purpose local government;
- (2)** the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and
- (3)** coordination of transportation plans, programs, and planning activities with related planning activities being carried out outside of metropolitan planning areas.

**(e) Long-Range Transportation Plan.**—

**(1) Development.**— Each State shall develop a long-range transportation plan, with a minimum 20-year forecast period, for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

**(2) Consultation with governments.**—

**(A) Metropolitan areas.**— With respect to each metropolitan area in the State, the long-range transportation plan shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134 of this title and section 5303 of title 49.

**(B) Nonmetropolitan areas.**— With respect to each nonmetropolitan area, the long-range transportation plan shall be developed in consultation with affected local officials with responsibility for transportation.

**(C) Indian tribal areas.**— With respect to each area of the State under the jurisdiction of an Indian tribal government, the long-range transportation plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

**(3) Participation by interested parties.**— In developing the long-range transportation plan, the State shall—

**(A)** provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, private providers of transportation, representatives of users of public transit, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed plan; and

**(B)** identify transportation strategies necessary to efficiently serve the mobility needs of people.

**(4) Financial plan.**— The long-range transportation plan may include a financial plan that demonstrates how the adopted long-range transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

**(5) Selection of projects from illustrative list.**— Notwithstanding paragraph (4), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (4).

**(f) State Transportation Improvement Program.**—

**(1) Development.**—

**(A) In general.**— Each State shall develop a transportation improvement program for all areas of the State.

**(B) Consultation with governments.**—

**(i) Metropolitan areas.**— With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134 of this title and section 5303 of title 49.

**(ii) Nonmetropolitan areas.**—

**(I) In general.**— With respect to each nonmetropolitan area in the State, the program shall be developed in consultation with affected local officials with responsibility for transportation.

**(II) Review.**— Not later than 1 year after the date of enactment of this subclause, the State shall submit to the Secretary the details of the consultative planning process developed by the State for nonmetropolitan areas under subclause (I). The Secretary shall not review or approve such process.

**(iii) Indian tribal areas.**— With respect to each area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal government and the Secretary of the Interior.

**(C) Participation by interested parties.**— In developing the program, the Governor shall provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the proposed program.

**(2) Included projects.**—

**(A) In general.**— A transportation improvement program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

**(B) Chapter 2 projects.**—

**(i) Regionally significant projects.**— Regionally significant projects proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.

**(ii) Other projects.**— Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

**(C) Consistency with long-range transportation plan.**— Each project shall be—

**(i)** consistent with the long-range transportation plan developed under this section for the State;

**(ii)** identical to the project as described in an approved metropolitan transportation improvement program; and

**(iii)** in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as nonattainment for ozone or carbon monoxide under such Act.

**(D) Requirement of anticipated full funding.**— The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

**(E) Financial plan.**— The transportation improvement program may include a financial plan that demonstrates how the approved transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

**(F) Selection of projects from illustrative list.**—

**(i) No required selection.**— Notwithstanding subparagraph (E), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (E).

**(ii) Required action by the secretary.**— Action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial plan under

subparagraph (E) for inclusion in an approved transportation improvement program.

**(G) Priorities.**— The program shall reflect the priorities for programming and expenditures of funds, including transportation enhancement activities, required by this title.

**(3) Project selection for areas of less than 50,000 population.—**

**(A) In general.**— Projects carried out in areas with populations of less than 50,000 individuals (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program) shall be selected, from the approved statewide transportation improvement program, by the State in cooperation with the affected local officials.

**(B) National highway system projects.**— Projects carried out in areas described in subparagraph (A) on the National Highway System and projects carried out in such areas under the bridge program or the Interstate maintenance program shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected local officials.

**(4) Biennial review and approval.**— A transportation improvement program developed under this subsection shall be reviewed and, on a finding that the planning process through which the program was developed is consistent with this section, section 134, and sections 5303 through 5305 of title 49, approved not less frequently than biennially by the Secretary.

**(5) Modifications to project priority.**— Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved statewide transportation improvement program in place of another project in the program.

**(g) Funding.**— Funds set aside pursuant to section 505 (a) of title 23, United States Code, shall be available to carry out the requirements of this section.

**(h) Treatment of Certain State Laws as Congestion Management Systems.**— For purposes of this section, section 134, and sections 5303–5306 and 5323 (k) <sup>[1]</sup> of title 49, State laws, rules or regulations pertaining to congestion management systems or programs may constitute the congestion management system under this Act <sup>[1]</sup> if the Secretary finds that the State laws, rules or regulations are consistent with, and fulfill the intent of, the purposes of this section, section 134 or sections 5303–5306 and 5323 (k), <sup>[1]</sup> as appropriate.

**(i) Continuation of Current Review Practice.**— Since plans and programs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the plans and programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and programs described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a plan or program described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

[1] See References in Text note below.

## **B. Title 49**

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Sec. 5320. Suspended light rail system technology pilot project

(a) Purpose.--The purpose of this section is to provide for the construction by a public entity of a suspended light rail system technology pilot project--

- (1) to assess the state of new technology for a suspended light rail system; and
- (2) to establish the feasibility, costs, and benefits of using

the system to transport passengers.

(b) General Requirements.--The project shall--

(1) use new rail technology with individual vehicles on a prefabricated elevated steel guideway;

(2) be stability-seeking with a center of gravity for the detachable passenger vehicles located below the point of wheel-rail contact; and

(3) use vehicles that are driven by overhead bogies with high efficiency, low maintenance electric motors for each wheel, operating in a slightly sloped plane from vertical for the wheels and the running rails, to further increase stability, acceleration, and braking performance.

(c) Competition.--(1) The Secretary of Transportation shall conduct a national competition to select a public entity with which to make a full funding grant agreement to construct the project. Not later than April 16, 1992, the Secretary shall select 3 public entities to be finalists in the competition. In conducting the competition and selecting public entities, the Secretary shall consider--

(A) the public entity's demonstrated understanding and knowledge of the project and its technical, managerial, and financial capacity to construct, manage, and operate the project; and

(B) maximizing potential contributions to the cost of the project by State, local, and private sector entities, including donation of in-kind services and materials.

(2) The Secretary shall award a grant to each finalist to be used to participate in the final phase of the competition under procedures the Secretary prescribes. A grant may not be more than 80 percent of the cost of participating. A finalist may not receive more than one-third of the amount made available under subsection (h)(1)(A) of this section.

(3) Not later than July 15, 1992, the Secretary shall select from among the 3 finalists a public entity with which to make a full funding grant agreement.

(d) Environmental Impact.--Not later than 270 days after a public entity is selected under subsection (c) of this section, the Secretary shall approve and publish in the Federal Register a notice announcing either a finding of no significant impact or a draft environmental impact statement for the project. The alternatives analysis for the project shall include a decision on whether to construct the project. If a draft statement is published, the Secretary, not later than 180 days after publication, shall approve and publish in the Federal Register a notice of completion of a final environmental impact statement.

(e) Full Funding Grant Agreement.--Not later than 60 days after carrying out the requirements of subsection (d) of this section, the Secretary shall make a full funding grant agreement under section 5309 of this title with the public entity selected under subsection (c) of this section to construct the project. The agreement shall provide that the system vendor for the project shall finance--

(1) 100 percent of any deficit incurred in operating the project in the first 2 years of revenue operations of the project; and

(2) 50 percent of any deficit incurred in operating the project in the 3d year of revenue operations of the project.

(f) Notice To Proceed.--Not later than 30 days after making the full funding grant agreement, the Secretary shall issue a notice to proceed with construction.

(g) Option Not To Construct and Reawarding the Grant.--(1) Not later than 30 days after completing preliminary engineering and design, the selected public entity shall decide whether to proceed to constructing the project. If the entity decides not to proceed--

(A) the Secretary shall not make the full funding grant agreement;

(B) remaining amounts received shall be returned to the Secretary and credited to the Mass Transit Account of the Highway Trust Fund; and

(C) the Secretary shall use the credited amount and other amounts to be provided under this section to award to another entity selected under subsection (c)(1) of this section a grant under section 5309 of this title to construct the project.

(2) Not later than 60 days after a decision is made under paragraph (1) of this subsection, a grant shall be awarded under paragraph (1)(C) of this subsection after completing a competitive process for selecting the grant recipient.

(h) Financing.--(1) The Secretary shall pay from amounts provided under section 5309 of this title the following:

(A) at least \$1,000,000 for the fiscal year ending September 30, 1992, for grants under subsection (c)(2) of this section.

(B) at least \$4,000,000 for the fiscal year ending September 30, 1993, for the United States Government share of the costs (as determined under section 5309 of this title) if the systems planning, alternatives analysis, preliminary engineering, and design and environmental impact statement are required by law for the project.

(C) at least \$30,000,000 for the fiscal year ending September 30, 1994, as provided in the grant agreement under subsection (e) of this section, for the Government share of the construction costs of the project.

(2) The grant agreement under subsection (e) of this section shall provide that for the 3d year of revenue operations of the project, the Secretary shall pay from amounts provided under this section the Government share of operating costs in an amount equal to the lesser of 50 percent of the deficit incurred in operating the project in that year or \$300,000.

(3) Amounts not expended under paragraph (1)(A) of this subsection are available for the Government share of costs described in paragraph (1)(B) and (C) of this subsection.

(4) Amounts under paragraph (1)(B) and (C) of this subsection remain available until expended.

(i) Government's Share of Costs.--The Government share of the cost of constructing the project is 80 percent of the net cost of the project.

(j) Project Not Subject to Major Capital Investment Policy.--The project is not subject to the major capital investment policy of the Federal Transit Administration.

(k) Report.--Not later than January 30, 1993, and each year after that date, the Secretary shall submit to Congress a report on the progress and results of the project.

(Pub. L. 103-272, Sec. 1(d), July 5, 1994, 108 Stat. 818; Pub. L. 103-429, Sec. 6(9), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 105-178, title III, Sec. 3009(h)(3)(A), June 9, 1998, 112 Stat. 356; Pub. L. 105-206, title IX, Sec. 9009(h)(1), July 22, 1998, 112 Stat. 856.)

Historical and Revision Notes  
Pub. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5320(a).....	49 App.:1622(c)(2).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, Sec. 26(c); added Dec. 18, 1991, Pub. L. 102-240, Sec. 3030, 105 Stat. 2119.
5320(b).....	49 App.:1622(c)(3).	
5320(c).....	49 App.:1622(c)(4).	
5320(d).....	49 App.:1622(c)(5) (1st-3d sentences).	
5320(e).....	49 App.:1622(c)(1), (8).	
5320(f).....	49 App.:1622(c)(6).	
5320(g).....	49 App.:1622(c)(7).	
5320(h).....	49 App.:1622(c)(9).	
5320(i).....	49 App.:1622(c)(10).	
5320(j).....	49 App.:1622(c)(5) (last sentence).	
5320(k).....	49 App.:1622(c)(11).	

In subsections (c)(1), before clause (A), and (h)(2), the words "Notwithstanding any other provision of law" are omitted as surplus.

In subsection (c)(1), before clause (A), the text of 49 App.:1622(c)(4)(B) is omitted as executed.

In subsection (d), the words "or not" and "actually" are omitted as surplus.

In subsection (e), before clause (1), the words "negotiate and" are omitted as surplus.

In subsections (g)(1)(C) and (h)(1)(C) and (2), the word "section" in the source provision is translated as if it were "subsection" to reflect the apparent intent of Congress.

In subsection (g)(1), before clause (A), the words "or not" and "actual" are omitted as surplus. In clause (C), the words "another entity" are substituted for "entities", and the words "paragraph (4)(e)" in the source provision are translated as if they were "paragraph (4)(C)", for clarity.

Pub. L. 103-429

This amends 49:5320(g)(2) to correct an erroneous cross-reference.

## Amendments

1998--Subsec. (c)(1), (3). Pub. L. 105-178, Sec. 3009(h)(3)(A)(i), substituted ``full funding" for ``full financing".

Subsec. (e). Pub. L. 105-178, Sec. 3009(h)(3)(A)(ii), as amended by Pub. L. 105-206, substituted ``Funding" for ``Financing" in heading.

Pub. L. 105-178, Sec. 3009(h)(3)(A)(i), substituted ``full funding" for ``full financing".

Subsecs. (f), (g)(1)(A). Pub. L. 105-178, Sec. 3009(h)(3)(A)(i), substituted ``full funding" for ``full financing".

1994--Subsec. (g)(2). Pub. L. 103-429 substituted ``paragraph (1)(C) of this subsection" for ``paragraph (1)(C) of this section".

### Effective Date of 1998 Amendment

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Pub. L. 105-206, set out as a note under section 101 of Title 23, Highways.

### Effective Date of 1994 Amendment

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

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## Sec. 5303. Metropolitan planning

### (a) General Requirements.--

(1) Development of plans and programs.--To carry out section 5301(a), metropolitan planning organizations designated under subsection (c), in cooperation with the States and mass transportation operators, shall develop transportation plans and programs for urbanized areas of the State.

(2) Contents.--The plans and programs developed under paragraph (1) for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan area and as an integral part of an intermodal transportation system for the State and the United States.

(3) Process.--The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(b) Scope of Planning Process.--

(1) In general.--The metropolitan transportation planning process for a metropolitan area under this section shall provide for consideration of projects and strategies that will--

(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

(B) increase the safety and security of the transportation system for motorized and nonmotorized users;

(C) increase the accessibility and mobility options available to people and for freight;

(D) protect and enhance the environment, promote energy conservation, and improve quality of life;

(E) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

(F) promote efficient system management and operation; and

(G) emphasize the preservation of the existing transportation system.

(2) Failure to consider factors.--The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a transportation improvement plan, a project or strategy, or the certification of a planning process.

(c) Designating Metropolitan Planning Organizations.--(1) To carry out the planning process required by this section and sections 5304-5306 of this title, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000--

(A) by agreement of the chief executive officer of a State and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities, as defined by the Bureau of the Census); or

(B) under procedures established by State or local law.

(2) Each policy board of a metropolitan planning organization that serves an area designated as a transportation management area when designated or redesignated under this subsection shall consist of local elected officials, officials of public agencies that administer or operate major modes of transportation in the metropolitan area (including all transportation authorities included in the organization on June 1, 1991), and appropriate State officials.

(3) More than one metropolitan planning organization may be designated within an existing metropolitan planning area only if the chief executive officer of the State and the existing metropolitan organization determine that the size and complexity of the existing metropolitan planning area make designation of more than one organization appropriate.

(4) A designation is effective until--

(A) the organization is redesignated under paragraph (5) of this subsection; or

(B) revoked--

(i) by agreement of the chief executive officer and units of general local government representing at least 75 percent of the affected population; or

(ii) as otherwise provided by State or local procedures.

(5)(A) The chief executive officer and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city as defined by the Secretary of Commerce) may redesignate by agreement a metropolitan planning organization when appropriate to carry out this section and sections 5304-5306 of this title.

(B) A metropolitan planning organization shall be redesignated on request of one or more units of general local government representing at least 25 percent of the affected population (including the central city or cities, as defined by the Bureau of the Census) in an urbanized area with a population of more than 5,000,000, but less than 10,000,000 or that is an extreme nonattainment area for ozone or carbon monoxide (as defined in the Clean Air Act (42 U.S.C. 7401 et seq.)).

(C) A metropolitan planning organization shall be redesignated using procedures established to carry out this paragraph.

(D) Designations of metropolitan planning organizations, whether made under this section or under any other provision of law, shall remain in effect until redesignation under this paragraph.

(6) This subsection does not affect the authority, under State law in effect on December 18, 1991, of a public authority with multimodal transportation responsibilities--

(A) to develop plans and programs for a metropolitan planning organization to adopt; and

(B) to develop long-range capital plans, coordinate mass transportation services and projects, and carry out other activities under State law.

(d) Metropolitan Planning Area Boundaries.--

(1) In general.--To carry out this section, the metropolitan planning organization and the chief executive officer shall decide by agreement on the boundaries of a metropolitan planning area.

(2) Included area.--Each metropolitan planning area--

(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period; and

(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

(3) Existing metropolitan planning areas in nonattainment.-- Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of this paragraph shall be retained, except that the boundaries may be adjusted by agreement of the chief executive officer of the State and any affected metropolitan planning organizations, in the manner described in subsection (c)(5).

(4) New metropolitan planning areas in nonattainment.--In the

case of an urbanized area designated after the date of enactment of this paragraph as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, the boundaries of the metropolitan planning area--

- (A) shall be established in the manner described in subsection (c)(1);
  - (B) shall encompass the areas described in paragraph (2)(A);
  - (C) may encompass the areas described in paragraph (2)(B);
- and
- (D) may address any nonattainment area identified under the Clean Air Act for ozone or carbon monoxide.

(e) Coordination.--(1) The Secretary of Transportation shall establish requirements the Secretary considers appropriate to encourage chief executive officers and metropolitan planning organizations with responsibility for part of a multi-State metropolitan area to provide coordinated transportation planning for the entire area.

(2) Congress consents to at least 2 States making an agreement or compact, not in conflict with a law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

(3) If more than one metropolitan planning organization has authority in a metropolitan area or an area designated a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each organization shall consult with the other organizations designated for the area and the State to coordinate plans and projects required by this section and sections 5304-5306 of this title.

(4) The Secretary shall encourage each metropolitan planning organization to coordinate, to the maximum extent practicable, the design and delivery of transportation services within the metropolitan planning area that are provided--

- (A) by recipients of assistance under this chapter; and
- (B) by governmental agencies and non-profit organizations (including representatives of the agencies and organizations) that receive Governmental \1\ assistance from a source other than the Department of Transportation to provide non-emergency transportation services.

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\1\ So in original. Probably should not be capitalized.

(5) Coordination.--If a project is located within the boundaries of more than one metropolitan planning organization, the metropolitan planning organizations shall coordinate plans regarding the project.

(6) Lake tahoe region.--

(A) Definition.--In this paragraph, the term ``Lake Tahoe region" has the meaning given the term ``region" in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96-551 (94 Stat. 3234).

- (B) Transportation planning process.--The Secretary shall--
- (i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a

transportation planning process for the region; and

(ii) coordinate the transportation planning process with the planning process required of State and local governments under this chapter and sections 134 and 135 of title 23, United States Code.

(C) Interstate compact.--

(i) In general.--Subject to clause (ii) and notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

(ii) Involvement of federal land management agencies.--

(I) Representation.--The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

(II) Funding.--In addition to funds made available to the metropolitan planning organization under other provisions of this chapter and under title 23, not more than 1 percent of the funds allocated under section 202 of title 23 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

(D) Activities.--Highway projects included in transportation plans developed under this paragraph--

(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

(ii) may, in accordance with chapter 2 of title 23, be funded using funds allocated under section 202 of title 23, United States Code.

(f) Developing Long-Range Transportation Plans.--(1) Each metropolitan planning organization shall prepare and update periodically, according to a schedule the Secretary of Transportation decides is appropriate, a long-range plan for its metropolitan area under the requirements of this section. The plan shall be in the form the Secretary considers appropriate and at least shall--

(A) identify transportation facilities (including major roadways, mass transportation, and multimodal and intermodal facilities) that should function as an integrated metropolitan transportation system, emphasizing transportation facilities that serve important national, regional, and metropolitan transportation functions;

(B) include a financial plan that--

- (i) demonstrates how the long-range plan can be carried out;
- (ii) indicates resources from public and private sources reasonably expected to be made available to carry out the plan; and
- (iii) recommends any additional financing strategies for needed projects and programs;

(C) identify transportation strategies necessary--

- (i) to ensure preservation, including requirements for management, operation, modernization, and rehabilitation, of the existing and future transportation system; and
- (ii) to use existing transportation facilities most efficiently to relieve congestion, to efficiently serve the mobility needs of people and goods, and to enhance access within the metropolitan planning area;

(D) indicate appropriate proposed transportation enhancement activities; and

(E) the financial plan may include, for illustrative purposes, additional projects that would be included in the adopted long-range plan if reasonable additional resources beyond those identified in the financial plan were available, except that, for the purpose of developing the long-range plan, the metropolitan planning organization and the State shall cooperatively develop estimates of funds that will be available to support plan implementation.

(2) When formulating a long-range plan, the metropolitan planning organization shall consider the factors described in subsection (b) of this section and any State or local goals developed within the cooperative metropolitan planning process as they relate to a 20-year forecast period and to other forecast periods as determined by the participants in the planning process.

(3) In a metropolitan area that is in a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of the long-range plan with the development of the transportation control measures of the State Implementation Plan required by the Act.

(4) Before approving a long-range plan, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of mass transportation authority employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the plan in a way the Secretary of Transportation considers appropriate.

(5) A long-range plan shall be--

(A) published or otherwise made readily available for public review; and

(B) submitted for information purposes to the chief executive officer of the State at the time and in the way the Secretary of Transportation establishes.

(6) Selection of projects from illustrative list.--Notwithstanding paragraph (1)(E), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of

additional projects included in the financial plan under paragraph (1)(B).

(g) Grants.--Under criteria the Secretary of Transportation establishes, the Secretary may make contracts for, and grants to, States, local governmental authorities, and authorities of the States and governmental authorities, or may make agreements with other departments, agencies, and instrumentalities of the Government, to plan, engineer, design, and evaluate a mass transportation project and for other technical studies, including--

- (1) studies related to management, operations, capital requirements, and economic feasibility;
- (2) evaluating previously financed projects; and
- (3) other similar and related activities preliminary to and in preparation for constructing, acquiring, or improving the operation of facilities and equipment.

(h) Balanced and Comprehensive Planning.--(1) To the extent practicable, the Secretary of Transportation shall ensure that amounts made available under subsection (c) or (h)(1) of section 5338 of this title to carry out this section and sections 5304 and 5305 of this title are used to support balanced and comprehensive transportation planning that considers the relationships among land use and all transportation modes, without regard to the programmatic source of the planning amounts.

(2)(A) The Secretary of Transportation shall apportion 80 percent of the amount made available under subsection (c) or (h)(1) of section 5338 of this title to States in a ratio equal to the population in urbanized areas in each State divided by the total population in urbanized areas in all States, as shown by the latest available decennial census. A State may not receive less than .5 percent of the amount apportioned under this subparagraph.

(B) Amounts apportioned to a State under subparagraph (A) of this paragraph shall be allocated to metropolitan planning organizations in the State designated under this section under a formula--

- (i) the State develops in cooperation with the metropolitan planning organizations;
- (ii) the Secretary of Transportation approves; and
- (iii) that considers population in urbanized areas and provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in this section.

(C) A State shall make amounts available promptly to eligible metropolitan planning organizations according to procedures the Secretary of Transportation approves.

(3)(A) The Secretary of Transportation shall apportion 20 percent of the amount made available under subsection (c) or (h)(1) of section 5338 of this title to States to supplement allocations made under paragraph (2)(B) of this subsection for metropolitan planning organizations.

(B) Amounts under this paragraph shall be allocated under a formula that reflects the additional cost of carrying out planning, programming, and project selection responsibilities under this section and sections 5304-5306 of this title in those areas.

(4) To the maximum extent practicable, the Secretary of Transportation shall ensure that no metropolitan planning organization

is allocated less than the amount it received by administrative formula under this section in the fiscal year that ended September 30, 1991. To carry out this subsection, the Secretary may make a proportionate reduction in other amounts made available to carry out subsection (c) or (h)(1) of section 5338 of this title.

(5) Amounts available for an activity under this subsection are for 80 percent of the cost of the activity unless the Secretary of Transportation decides it is in the interests of the Government not to require a State or local match.

(6) An amount apportioned under this subsection--

(A) remains available for 3 years after the fiscal year in which the amount is apportioned, and

(B) that is unobligated at the end of the 3-year period shall be reapportioned among the States for the next fiscal year.

(Pub. L. 103-272, Sec. 1(d), July 5, 1994, 108 Stat. 788; Pub. L. 104-287, Sec. 5(10), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 105-102, Sec. 2(4), Nov. 20, 1997, 111 Stat. 2204; Pub. L. 105-178, title III, Secs. 3004, 3029(b)(1)-(3), June 9, 1998, 112 Stat. 341, 372; Pub. L. 105-206, title IX, Sec. 9009(b), July 22, 1998, 112 Stat. 852.)

Historical and Revision Notes  
Pub. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5303(a).....	49 App.:1607(a) (2d-last sentences).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, Sec. 8(a) (2d-last sentences)-(g), (n); added Nov. 6, 1978, Pub. L. 95-599, Sec. 305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100-17, Sec. 310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102-240, Sec. 3012, 105 Stat. 2098, 2104.
5303(b).....	49 App.:1607(f).	
5303(c)(1).....	49 App.:1607(b)(1).	
5303(c)(2).....	49 App.:1607(b)(2).	
5303(c)(3).....	49 App.:1607(b)(6).	
5303(c)(4).....	49 App.:1607(b)(4).	
5303(c)(5).....	49 App.:1607(b)(5).	
5303(c)(6).....	49 App.:1607(b)(3).	
5303(d).....	49 App.:1607(c).	
5303(e).....	49 App.:1607(d), (e).	
5303(f).....	49 App.:1607(g).	
5303(g).....	49 App.:1607(n).	
5303(h).....	49 App.:1607(p).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, Sec. 8(p); added Nov. 6, 1978, Pub. L. 95-599, Sec. 305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100-17, Sec. 310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102-240, Sec. 3012, 105 Stat. 2105; Oct. 6, 1992, Pub. L. 102-388, Sec. 502(h), 106 Stat. 1566.

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In this section, the word "together" is omitted as surplus. The words "Secretary of Commerce" are substituted for "Bureau of the Census" because of 15:1511(e).

In subsection (b)(2), the word "applicable" is omitted as surplus.

In subsection (b)(3), the words "where it does not yet occur" are omitted as surplus.

In subsection (b)(4), the words "the provisions of all applicable" are omitted as surplus.

In subsection (c)(4), before clause (A), the words "whether made under this section or other provisions of law" are omitted as surplus.

In subsection (d), the word "entire" is omitted as surplus.

In subsection (e)(2), the words "or compacts" and "joint or otherwise" are omitted as surplus.

In subsection (f)(3), the word "area" is added for clarity and consistency with 42:7501(2).

In subsection (f)(5)(A), the words "published or otherwise" are omitted as surplus.

In subsection (g), before clause (1), the words "local governmental authorities" are substituted for "local public bodies", and the words "departments, agencies, and instrumentalities of the Government" are substituted for "Federal departments and agencies", for consistency in the revised title and with other titles of the United States Code.

In subsection (h)(6)(A), the words "for obligation", "a period of", and "the close of" are omitted as surplus.

#### Pub. L. 104-287

This amends 49:5303(f)(2) and (h)(4) to correct erroneous cross-references.

#### Pub. L. 105-102, Sec. 2(4)(A)

This amends 49:5303(c)(1) to correct an erroneous cross-reference.

#### Pub. L. 105-102, Sec. 2(4)(B)

This amends 49:5303(c)(4)(A) to correct an erroneous cross-reference.

#### Pub. L. 105-102, Sec. 2(4)(C)

This amends 49:5303(c)(5)(A) to correct an erroneous cross-reference.

#### References in Text

The Clean Air Act, referred to in subsecs. (c)(5)(B), (d)(3), (4), (e)(3), and (f)(3), is act July 14, 1955, ch. 360, 69 Stat. 322, as

amended, which is classified generally to chapter 85 (Sec. 7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The date of enactment of this paragraph, referred to in subsec. (d)(3), (4), is the date of enactment of Pub. L. 105-178, which was approved June 9, 1998.

The Tahoe Regional Planning Compact [Pub. L. 96-551, 94 Stat. 3234], referred to in subsec. (e)(6)(A), is not classified to the Code.

## Amendments

1998--Subsecs. (a), (b). Pub. L. 105-178, Sec. 3004(a), added subsecs. (a) and (b) and struck out headings and text of former subsecs. (a) and (b) which related to development requirements and plan and program factors, respectively.

Subsec. (c)(1)(A). Pub. L. 105-178, Sec. 3004(b)(1)(B), substituted "or cities, as defined by the Bureau of the Census)" for "as defined by the Secretary of Commerce)".

Pub. L. 105-178, Sec. 3004(b)(1)(A), as amended by Pub. L. 105-206, Sec. 9009(b)(1)(A), substituted "general purpose local government that together represent" for "general local government representing".

Subsec. (c)(2). Pub. L. 105-178, Sec. 3004(b)(2), substituted "Each policy board of a metropolitan planning organization that serves an area designated as a transportation management area when designated or redesignated under this subsection shall consist of" for "In a metropolitan area designated as a transportation management area, the designated metropolitan planning organization, if redesignated after December 18, 1991, shall include" and "officials of public agencies" for "officials of authorities".

Subsec. (c)(3). Pub. L. 105-178, Sec. 3004(b)(3), as amended by Pub. L. 105-206, Sec. 9009(b)(1)(B), substituted "within an existing metropolitan planning area only if the chief executive officer of the State and the existing metropolitan organization determine that the size and complexity of the existing metropolitan planning area" for "in an urbanized area (as defined by the Secretary of Commerce) only if the chief executive officer decides that the size and complexity of the urbanized area".

Subsec. (c)(4)(A). Pub. L. 105-178, Sec. 3004(b)(4), as added by Pub. L. 105-206, Sec. 9009(b)(1)(E), directed an amendment identical to that made by Pub. L. 105-102, Sec. 2(4)(B). See 1997 Amendment note below.

Subsec. (c)(5)(A). Pub. L. 105-178, Sec. 3004(b)(5)(A), formerly Sec. 3004(b)(4)(A), as renumbered and amended by Pub. L. 105-206, Sec. 9009(b)(1)(C), (D), substituted "general purpose local government that together represent" for "general local government representing".

Subsec. (c)(5)(B). Pub. L. 105-178, Sec. 3004(b)(5)(B), formerly Sec. 3004(b)(4)(B), as renumbered by Pub. L. 105-206, Sec. 9009(b)(1)(D), substituted "or cities, as defined by the Bureau of the Census)" for "as defined by the Secretary of Commerce)".

Subsec. (c)(5)(D). Pub. L. 105-178, Sec. 3004(b)(5)(C), formerly Sec. 3004(b)(4)(C), as renumbered by Pub. L. 105-206, Sec. 9009(b)(1)(D), added subpar. (D).

Subsec. (d). Pub. L. 105-178, Sec. 3004(c), inserted "Planning" after "Metropolitan" in subsec. heading, designated existing provisions as par. (1), inserted par. heading, realigned margins, inserted "planning" before "area" in first sentence and substituted pars. (2) to (4) for "The area shall cover at least the existing urbanized area and the contiguous area expected to become urbanized within the 20-year forecast period and may include the Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area, as defined by the Secretary of Commerce. An area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) shall include at least the boundaries of the nonattainment area, except as the chief executive officer and metropolitan planning organization otherwise agree."

Subsec. (e)(2). Pub. L. 105-178, Sec. 3004(d)(1), inserted "or compact" after "2 States making an agreement" and substituted "making the agreements and compacts effective" for "making the agreement effective".

Subsec. (e)(4) to (6). Pub. L. 105-178, Sec. 3004(d)(2), as amended by Pub. L. 105-206, Sec. 9009(b)(2), added pars. (4) to (6).

Subsec. (f). Pub. L. 105-178, Sec. 3004(e)(5), substituted "Developing Long-Range Transportation Plans" for "Developing Long-Range Plans" in heading.

Pub. L. 105-178, Sec. 3004(e)(6), which directed substitution of "long-range transportation plans" for "long-range plans" wherever appearing, could not be executed because "long-range plans" does not appear in text.

Subsec. (f)(1)(A). Pub. L. 105-178, Sec. 3004(e)(1)(A), substituted "national, regional, and metropolitan transportation functions" for "United States and regional transportation functions".

Subsec. (f)(1)(B)(iii). Pub. L. 105-178, Sec. 3004(e)(1)(B), added cl. (iii) and struck out former cl. (iii) which read as follows: "recommends innovative financing techniques, including value capture, tolls, and congestion pricing, to finance needed projects and programs;"

Subsec. (f)(1)(C). Pub. L. 105-178, Sec. 3004(e)(1)(C), added subpar. (C) and struck out former subpar. (C) which read as follows: "assess capital investment and other measures necessary--

"(i) to ensure the preservation of the existing metropolitan transportation system, including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, and operations, maintenance, modernization, and rehabilitation of existing and future mass transportation facilities; and

"(ii) to use existing transportation facilities most efficiently to relieve vehicular congestion and maximize the mobility of individuals and goods; and"

Subsec. (f)(1)(E). Pub. L. 105-178, Sec. 3004(f)(1), as added by Pub. L. 105-206, Sec. 9009(b)(3), added subpar. (E).

Subsec. (f)(2). Pub. L. 105-178, Sec. 3004(e)(2), substituted "and any State or local goals developed within the cooperative metropolitan planning process as they relate to a 20-year forecast period and to other forecast periods as determined by the participants in the planning process" for "as they are related to a 20-year forecast period".

Subsec. (f)(4). Pub. L. 105-178, Sec. 3004(e)(3), inserted "freight

shippers, providers of freight transportation services," after ``mass transportation authority employees," and ``representatives of users of public transit," after ``private providers of transportation,".

Subsec. (f)(5)(A). Pub. L. 105-178, Sec. 3004(e)(4), inserted ``published or otherwise" before ``made readily available".

Subsec. (f)(6). Pub. L. 105-178, Sec. 3004(f)(2), as added by Pub. L. 105-206, Sec. 9009(b)(3), added par. (6).

Subsec. (h)(1). Pub. L. 105-178, Sec. 3029(b)(1), (2), substituted ``subsection (c) or (h)(1) of section 5338 of this title" for ``section 5338(g)(1) of this title" and ``sections 5304 and 5305 of this title" for ``sections 5304-5306 of this title".

Subsec. (h)(2)(A), (3)(A). Pub. L. 105-178, Sec. 3029(b)(1), substituted ``subsection (c) or (h)(1) of section 5338 of this title" for ``section 5338(g)(1) of this title".

Subsec. (h)(4). Pub. L. 105-178, Sec. 3029(b)(3), substituted ``subsection (c) or (h)(1) of section 5338 of this title" for ``section 5338(g) of this title".

1997--Subsec. (c)(1). Pub. L. 105-102, Sec. 2(4)(A), inserted ``and sections 5304-5306 of this title" after ``this section".

Subsec. (c)(4)(A). Pub. L. 105-102, Sec. 2(4)(B), substituted ``paragraph (5)" for ``paragraph (3)".

Subsec. (c)(5)(A). Pub. L. 105-102, Sec. 2(4)(C), inserted ``and sections 5304-5306 of this title" after ``this section".

1996--Subsec. (f)(2). Pub. L. 104-287, Sec. 5(10)(A), substituted ``subsection (b)" for ``subsection (e)".

Subsec. (h)(4). Pub. L. 104-287, Sec. 5(10)(B), substituted ``section 5338(g)" for ``5338(g)(1)".

#### Effective Date of 1998 Amendment

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Pub. L. 105-206, set out as a note under section 101 of Title 23, Highways.

#### Effective Date of 1996 Amendment

Section 8(1) of Pub. L. 104-287, as amended by Pub. L. 105-102, Sec. 3(d)(2)(A), Nov. 20, 1997, 111 Stat. 2215, provided that: ``The amendments made by sections 3 and 5(10)-(17), (19), (20), (52), (53), (55), (61), (62), (65), (70), (77)-(79), and (91)-(93) of this Act [amending this section, sections 5307, 5309, 5315, 5317, 5323, 5325, 5327, 5336, 5338, 20301, 21301, 22106, 32702, 32705, 40109, 41109, 46301, 46306, 46316, 60114, 70102, and 70112 of this title, and section 1445 of Title 28, Judiciary and Judicial Procedure] shall take effect on July 5, 1994."

#### Section Referred to in Other Sections

This section is referred to in sections 5304, 5305, 5306, 5307,

Sec. 5313. State planning and research programs

(a) Cooperative Research Program.--(1) The amounts made available under paragraphs (1) and (2)(C)(ii) of section 5338(d) of this title are available for a mass transportation cooperative research program. The Secretary of Transportation shall establish an independent governing board for the program. The board shall recommend mass transportation research, development, and technology transfer activities the Secretary considers appropriate.

(2) The Secretary may make grants to, and cooperative agreements with, the National Academy of Sciences to carry out activities under this subsection that the Secretary decides are appropriate.

(b) State Planning and Research.--(1) The amounts made available under paragraphs (1) and (2)(C)(ii) of section 5338(c) of this title shall be apportioned to States for grants and contracts consistent with the purposes of sections 5303-5306, 5312, 5315, 5317, \1\ and 5322 of this title. The amounts shall be apportioned so that each State receives an amount equal to the population in urbanized areas in the State, divided by the population in urbanized areas in all States, as shown by the latest available decennial census. However, a State must receive at least .5 percent of the amount apportioned under this subsection.

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\1\ See References in Text note below.  
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(2) A State, as the State considers appropriate, may authorize part of the amount made available under this subsection to be used to supplement amounts available under subsection (a) of this section.

(3) An amount apportioned under this subsection--

(A) remains available for 3 years after the fiscal year in which the amount is apportioned; and

(B) that is unobligated at the end of the 3-year period shall be reapportioned among the States for the next fiscal year.

(c) Government's Share.--When there would be a clear and direct financial benefit to an entity under a grant or contract financed under subsection (a) of this section, the Secretary shall establish a United States Government share consistent with the benefit.

(Pub. L. 103-272, Sec. 1(d), July 5, 1994, 108 Stat. 812; Pub. L. 105-178, title III, Sec. 3029(b)(4), (5), June 9, 1998, 112 Stat. 372.)

Historical and Revision Notes

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5313(a).....	49 App.:1622(a)(1).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, Sec. 26(a); added Dec. 18, 1991, Pub. L. 102-240, Sec. 3030, 105 Stat. 2117; Oct. 6, 1992, Pub. L. 102-388, Sec. 502(r), 106 Stat. 1567.

5313(b)..... 49 App.:1622(a)(2).  
5313(c)..... 49 App.:1622(b)(8) (related to July 9, 1964, Pub. L. 88-365, 78 Stat.  
subsection (a)(1)). 302, Sec. 26(b)(8) (related to  
subsection (a)(1)); added Dec. 18,  
1991, Pub. L. 102-240, Sec. 3030, 103  
Stat. 2119.

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In subsection (b)(1), the word "total" is omitted as surplus.

In subsection (b)(2), the word "subsection" in the source provision is translated as if it were "paragraph" to reflect the apparent intent of Congress.

In subsection (b)(3)(A), the words "for obligation", "a period of", and "the close of" are omitted as surplus.

#### References in Text

Section 5317 of this title, referred to in subsec. (b)(1), was repealed by Pub. L. 105-178, title V, Sec. 5110(c), June 9, 1998, 112 Stat. 444.

#### Amendments

1998--Subsec. (a)(1). Pub. L. 105-178, Sec. 3029(b)(4), substituted "The amounts made available under paragraphs (1) and (2)(C)(ii) of section 5338(d)" for "Fifty percent of the amounts made available under section 5338(g)(3)".

Subsec. (b)(1). Pub. L. 105-178, Sec. 3029(b)(5), substituted "The amounts made available under paragraphs (1) and (2)(C)(ii) of section 5338(c)" for "Fifty percent of the amounts made available under section 5338(g)(3)".

#### Section Referred to in Other Sections

This section is referred to in sections 5314, 5338 of this title.

## **C. SAFETEA-LU**

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### SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.--The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) Interstate maintenance program.--For the Interstate maintenance program under section 119 of title 23, United States Code--

- (A) \$4,883,759,623 for fiscal year 2005;
- (B) \$4,960,788,917 for fiscal year 2006;
- (C) \$5,039,058,556 for fiscal year 2007;
- (D) \$5,118,588,513 for fiscal year 2008; and
- (E) \$5,199,399,081 for fiscal year 2009.

- (2) National highway system.--For the National Highway System under section 103 of such title--
- (A) \$5,911,200,104 for fiscal year 2005;
  - (B) \$6,005,256,569 for fiscal year 2006;
  - (C) \$6,110,827,556 for fiscal year 2007;
  - (D) \$6,207,937,450 for fiscal year 2008; and
  - (E) \$6,306,611,031 for fiscal year 2009.
- (3) Bridge program.--For the bridge program under section 144 of such title--
- (A) \$4,187,708,821 for fiscal year 2005;
  - (B) \$4,253,530,131 for fiscal year 2006;
  - (C) \$4,320,411,313 for fiscal year 2007;
  - (D) \$4,388,369,431 for fiscal year 2008; and
  - (E) \$4,457,421,829 for fiscal year 2009.
- (4) Surface transportation program.--For the surface transportation program under section 133 of such title--
- (A) \$6,860,096,662 for fiscal year 2005;
  - (B) \$6,269,833,394 for fiscal year 2006;
  - (C) \$6,370,469,775 for fiscal year 2007;
  - (D) \$6,472,726,628 for fiscal year 2008; and
  - (E) \$6,576,630,046 for fiscal year 2009.
- (5) Congestion mitigation and air quality improvement program.--For the congestion mitigation and air quality improvement program under section 149 of such title--
- (A) \$1,667,255,304 for fiscal year 2005;
  - (B) \$1,694,101,866 for fiscal year 2006;
  - (C) \$1,721,380,718 for fiscal year 2007;
  - (D) \$1,749,098,821 for fiscal year 2008; and

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- (E) \$1,777,263,247 for fiscal year 2009.
- (6) Highway safety improvement program.--For the highway safety improvement program under section 148 of such title--
- (A) \$1,235,810,000 for fiscal year 2006;
  - (B) \$1,255,709,322 for fiscal year 2007;
  - (C) \$1,275,929,067 for fiscal year 2008; and
  - (D) \$1,296,474,396 for fiscal year 2009.
- (7) Appalachian development highway system program.--For the Appalachian development highway system program under subtitle IV of title 40, United States Code, \$470,000,000 for each of fiscal years 2005 through 2009.
- (8) Recreational trails program.--For the recreational trails program under section 206 of title 23, United States Code--
- (A) \$60,000,000 for fiscal year 2005;
  - (B) \$70,000,000 for fiscal year 2006;
  - (C) \$75,000,000 for fiscal year 2007;
  - (D) \$80,000,000 for fiscal year 2008; and
  - (E) \$85,000,000 for fiscal year 2009.
- (9) Federal lands highways program.--
- (A) Indian reservation roads.--For Indian reservation roads under section 204 of such title--
    - (i) \$300,000,000 for fiscal year 2005;

- (ii) \$330,000,000 for fiscal year 2006;
  - (iii) \$370,000,000 for fiscal year 2007;
  - (iv) \$410,000,000 for fiscal year 2008; and
  - (v) \$450,000,000 for fiscal year 2009.
- (B) Park roads and parkways.--
- (i) In general.--For park roads and parkways under section 204 of such title--
    - (I) \$180,000,000 for fiscal year 2005;
    - (II) \$195,000,000 for fiscal year 2006;
    - (III) \$210,000,000 for fiscal year 2007;
    - (IV) \$225,000,000 for fiscal year 2008; and
    - (V) \$240,000,000 for fiscal year 2009.

(ii) Minimum allocation to certain states.--A State containing more than 50 percent of the total acreage of the National Park System shall receive not less than 3 percent of any funds appropriated under this subparagraph.

(C) Refuge roads.--For refuge roads under section 204 of such title, \$29,000,000 for each of fiscal years 2005 through 2009.

(D) Public lands highways.--For Federal lands highways under section 204 of such title--

- (i) \$260,000,000 for fiscal year 2005;
- (ii) \$280,000,000 for fiscal year 2006;
- (iii) \$280,000,000 for fiscal year 2007;
- (iv) \$290,000,000 for fiscal year 2008; and
- (v) \$300,000,000 for fiscal year 2009.

(10) National corridor infrastructure improvement program.--For the national corridor infrastructure improvement program under section 1302 of this Act--

- (A) \$194,800,000 for fiscal year 2005;
- (B) \$389,600,000 for fiscal year 2006;
- (C) \$487,000,000 for fiscal year 2007;

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- (D) \$487,000,000 for fiscal year 2008; and
- (E) \$389,600,000 for fiscal year 2009.

(11) Coordinated border infrastructure program.--For the coordinated border infrastructure program under section 1303 of this Act--

- (A) \$123,000,000 for fiscal year 2005;
- (B) \$145,000,000 for fiscal year 2006;
- (C) \$165,000,000 for fiscal year 2007;
- (D) \$190,000,000 for fiscal year 2008; and
- (E) \$210,000,000 for fiscal year 2009.

(12) National scenic byways program.--For the national scenic byways program under section 162 of such title--

- (A) \$26,500,000 for fiscal year 2005;

- (B) \$30,000,000 for fiscal year 2006;
- (C) \$35,000,000 for fiscal year 2007;
- (D) \$40,000,000 for fiscal year 2008; and
- (E) \$43,500,000 for fiscal year 2009.

(13) Construction of ferry boats and ferry terminal facilities.--For construction of ferry boats and ferry terminal facilities under section 147 of such title--

- (A) \$38,000,000 for fiscal year 2005;
- (B) \$55,000,000 for fiscal year 2006;
- (C) \$60,000,000 for fiscal year 2007;
- (D) \$65,000,000 for fiscal year 2008; and
- (E) \$67,000,000 for fiscal year 2009.

(14) Puerto Rico highway program.--For the Puerto Rico highway program under section 165 of such title--

- (A) \$115,000,000 for fiscal year 2005;
- (B) \$120,000,000 for fiscal year 2006;
- (C) \$135,000,000 for fiscal year 2007;
- (D) \$145,000,000 for fiscal year 2008; and
- (E) \$150,000,000 for fiscal year 2009.

(15) Projects of national and regional significance program.--For the projects of national and regional significance program under section 1301 of this Act--

- (A) \$177,900,000 for fiscal year 2005;
- (B) \$355,800,000 for fiscal year 2006;
- (C) \$444,750,000 for fiscal year 2007;
- (D) \$444,750,000 for fiscal year 2008; and
- (E) \$355,800,000 for fiscal year 2009.

(16) High priority projects program.--For the high priority projects program under section 117 of title 23, United States Code, \$2,966,400,000 for each of fiscal years 2005 through 2009.

(17) Safe routes to school program.--For the safe routes to school program under section 1404 of this Act--

- (A) \$54,000,000 for fiscal year 2005;
- (B) \$100,000,000 for fiscal year 2006;
- (C) \$125,000,000 for fiscal year 2007;
- (D) \$150,000,000 for fiscal year 2008; and
- (E) \$183,000,000 for fiscal year 2009.

(18) Deployment of magnetic levitation transportation projects.--For the deployment of magnetic levitation projects under section 1307 of this Act--

- (A) \$15,000,000 for each of fiscal years 2006 and 2007; and
- (B) \$30,000,000 for each of fiscal years 2008 and 2009.

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(19) National corridor planning and development and coordinated border infrastructure programs.--For the national corridor planning and development and coordinated border infrastructure programs under sections 1118 and 1119 of the Transportation Equity Act for the 21st Century (112 Stat. 161, 163) \$140,000,000 for fiscal year 2005.

(20) Highways for life.--For the Highways for LIFE Program

under section 1502 of this Act--

- (A) \$15,000,000 for fiscal year 2006; and
- (B) \$20,000,000 for each of fiscal years 2007 through 2009.

(21) Highway use tax evasion projects.--For highway use tax evasion projects under section 1115 of this Act--

- (A) \$5,000,000 for fiscal year 2005;
- (B) \$44,800,000 for fiscal year 2006;
- (C) \$53,300,000 for fiscal year 2007; and
- (D) \$12,000,000 for each of fiscal years 2008 and 2009.

(b) <<NOTE: 23 USC 101 note.>> Disadvantaged Business Enterprises.--

(1) Definitions.--In this subsection, the following definitions apply:

(A) Small business concern.--The term "small business concern" has the meaning that term has under section 3 of the Small Business Act (15 U.S.C. 632), except that the term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of \$19,570,000, as adjusted annually by the Secretary for inflation.

(B) Socially and economically disadvantaged individuals.--The term "socially and economically disadvantaged individuals" has the meaning that term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations issued pursuant to that Act, except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this subsection.

(2) General rule.--Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I, III, and V of this Act and section 403 of title 23, United States Code, shall be expended through small business concerns owned and controlled by socially and economically disadvantaged individuals.

(3) <<NOTE: Records.>> Annual listing of disadvantaged business enterprises.--Each State shall annually--

(A) survey and compile a list of the small business concerns referred to in paragraph (1) and the location of the concerns in the State; and

(B) <<NOTE: Notification.>> notify the Secretary, in writing, of the percentage of the concerns that are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

(4) <<NOTE: Guidelines.>> Uniform certification.--The Secretary shall establish minimum uniform criteria for State governments to use in

certifying whether a concern qualifies for purposes of this subsection. The minimum uniform criteria shall include, but not be limited to, on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

(5) Compliance with court orders.--Nothing in this subsection limits the eligibility of an entity or person to receive funds made available under titles I, III, and V of this Act and section 403 of title 23, United States Code, if the entity or person is prevented, in whole or in part, from complying with paragraph (1) because a Federal court issues a final order in which the court finds that the requirement of paragraph (1), or the program established under paragraph (1), is unconstitutional.

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SEC. 1102. <<NOTE: 23 USC 104 note.>> OBLIGATION CEILING.

(a) General Limitation.--Subject to subsections (g) and (h), and notwithstanding any other provision of law, the obligations for Federal-aid highway and highway safety construction programs shall not exceed--

- (1) \$34,422,400,000 for fiscal year 2005;
- (2) \$36,032,343,903 for fiscal year 2006;
- (3) \$38,244,210,516 for fiscal year 2007;
- (4) \$39,585,075,404 for fiscal year 2008; and
- (5) \$41,199,970,178 for fiscal year 2009.

(b) Exceptions.--The limitations under subsection (a) shall not apply to obligations under or for--

- (1) section 125 of title 23, United States Code;
- (2) section 147 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 144 note; 92 Stat. 2714);
- (3) section 9 of the Federal-Aid Highway Act of 1981 (Public Law 97-134; 95 Stat. 1701);
- (4) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 (Public Law 97-424; 96 Stat. 2119);
- (5) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17; 101 Stat. 198);
- (6) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2027);
- (7) section 157 of title 23, United States Code (as in effect on June 8, 1998);
- (8) section 105 of title 23, United States Code (as in

effect for fiscal years 1998 through 2004, but only in an amount equal to \$639,000,000 for each of those fiscal years);

(9) Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century (Public Law 105-178; 112 Stat. 107) or subsequent public laws for multiple years or to remain available until used, but only to the extent that the obligation authority has not lapsed or been used;

(10) section 105 of title 23, United States Code (but, for each of fiscal years 2005 through 2009, only in an amount equal to \$639,000,000 per fiscal year); and

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(11) section 1603 of this Act, to the extent that funds obligated in accordance with that section were not subject to a limitation on obligations at the time at which the funds were initially made available for obligation.

(c) Distribution of Obligation Authority.--For each of fiscal years 2005 through 2009, the Secretary--

(1) shall not distribute obligation authority provided by subsection (a) for the fiscal year for--

(A) amounts authorized for administrative expenses and programs by section 104(a) of title 23, United States Code;

(B) programs funded from the administrative takedown authorized by section 104(a)(1) of title 23, United States Code (as in effect on the date before the date of enactment of this Act); and

(C) amounts authorized for the highway use tax evasion program and the Bureau of Transportation Statistics;

(2) shall not distribute an amount of obligation authority provided by subsection (a) that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety programs for previous fiscal years the funds for which are allocated by the Secretary;

(3) shall determine the ratio that--

(A) the obligation authority provided by subsection (a) for the fiscal year, less the aggregate of amounts not distributed under paragraphs (1) and (2); bears to

(B) the total of the sums authorized to be appropriated for the Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for provisions of law described in paragraphs (1) through (9) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(10) for the fiscal year), less the aggregate of the amounts not distributed under paragraphs (1) and (2);

(4)(A) shall distribute the obligation authority provided by

subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2), for sections 1301, 1302, and 1934 of this Act, sections 117 but individually for each of project numbered 1 through 3676 listed in the table contained in section 1702 of this Act and 144(g) of title 23, United States Code, and section 14501 of title 40, United States Code, and, during fiscal year 2005, amounts for programs, projects, and activities authorized by section 117 of title I of division H of the Consolidated Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 3212), so that the amount of obligation authority available for each of such sections is equal to the amount determined by multiplying--

(i) the ratio determined under paragraph (3); by

(ii) the sums authorized to be appropriated for that section for the fiscal year; and

(B) shall distribute \$2,000,000,000 for section 105 of title 23, United States Code;

(5) shall distribute among the States the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2), for each

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of the programs that are allocated by the Secretary under this Act and title 23, United States Code (other than to programs to which paragraph (1) applies), by multiplying--

(A) the ratio determined under paragraph (3); by

(B) the amounts authorized to be appropriated for each such program for the fiscal year; and

(6) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2) and the amounts distributed under paragraphs (4) and (5), for Federal-aid highway and highway safety construction programs (other than the amounts apportioned for the equity bonus program, but only to the extent that the amounts apportioned for the equity bonus program for the fiscal year are greater than \$2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under this Act and title 23, United States Code, in the ratio that--

(A) amounts authorized to be appropriated for the programs that are apportioned to each State for the fiscal year; bear to

(B) the total of the amounts authorized to be appropriated for the programs that are apportioned to all States for the fiscal year.

(d) Redistribution of Unused Obligation Authority.--Notwithstanding subsection (c), the Secretary shall, after August 1 of each of fiscal years 2005 through 2009--

(1) revise a distribution of the obligation authority made available under subsection (c) if an amount distributed cannot be obligated during that fiscal year; and

(2) redistribute sufficient amounts to those States able to

obligate amounts in addition to those previously distributed during that fiscal year, giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code.

(e) Applicability of Obligation Limitations to Transportation Research Programs.--

(1) In general.--Except as provided in paragraph (2), obligation limitations imposed by subsection (a) shall apply to contract authority for transportation research programs carried out under--

(A) chapter 5 of title 23, United States Code; and

(B) title V (research title) of this Act.

(2) Exception.--Obligation authority made available under paragraph (1) shall--

(A) remain available for a period of 3 fiscal years; and

(B) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(f) Redistribution of Certain Authorized Funds.--

(1) <<NOTE: Deadline.>> In general.--Not later than 30 days after the date of distribution of obligation authority under subsection (c) for each of fiscal years 2005 through 2009, the Secretary shall distribute to the States any funds that--

(A) are authorized to be appropriated for the fiscal year for Federal-aid highway programs; and

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(B) the Secretary determines will not be allocated to the States, and will not be available for obligation, in the fiscal year due to the imposition of any obligation limitation for the fiscal year.

(2) Ratio.--Funds shall be distributed under paragraph (1) in the same ratio as the distribution of obligation authority under subsection (c)(6).

(3) Availability.--Funds distributed under paragraph (1) shall be available for any purpose described in section 133(b) of title 23, United States Code.

(g) Special Limitation Characteristics.--Obligation authority distributed for a fiscal year under subsection (c)(4) for the provision specified in subsection (c)(4) shall--

(1) remain available until used for obligation of funds for that provision; and

(2) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(h) Adjustment in Obligation Limit.--

(1) In general.--Subject to the last sentence of section

110(a)(2) of title 23, United States Code, a limitation on obligations imposed by subsection (a) for a fiscal year shall be adjusted by an amount equal to the amount determined in accordance with section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(B)) for the fiscal year.

(2) Distribution.--An adjustment under paragraph (1) shall be distributed in accordance with this section.

(i) Special Rule for Fiscal Year 2005.--

(1) In general.--Obligation authority distributed under subsection (c)(4) for fiscal year 2005 for sections 1301, 1302, and 1934 of this Act and sections 117 and 144(g) of title 23, United States Code, may be used in fiscal year 2005 for purposes of obligation authority distributed under subsection (c)(6).

(2) Restoration.--Obligation authority used as described in paragraph (1) shall be restored to the original purpose on the date on which obligation authority is distributed under this section for fiscal year 2006.

(j) High Priority Project Flexibility.--

(1) In general.--Subject to paragraph (2), obligation authority distributed for a fiscal year under subsection (c)(4) for each project numbered 1 through 3676 listed in the table contained in section 1702 of this Act may be obligated for any other project in such section in the same State.

(2) Restoration.--Obligation authority used as described in paragraph (1) shall be restored to the original purpose on the date on which obligation authority is distributed under this section for the next fiscal year following obligation under paragraph (1).

(k) Limitation on Statutory Construction.--Nothing in this section shall be construed to limit the distribution of obligation authority under subsection (c)(4)(A) for each of the individual projects numbered greater than 3676 listed in the table contained in section 1702 of this Act.

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## SEC. 1103. APPORTIONMENTS.

(a) Administrative Expenses.--

(1) In general.--Section 104(a) of title 23, United States Code, is amended to read as follows:

``(a) Administrative Expenses.--

``(1) In general.--There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to be made available to the Secretary for administrative expenses of the Federal Highway Administration--

- ``(A) \$353,024,000 for fiscal year 2005;
- ``(B) \$370,613,540 for fiscal year 2006;
- ``(C) \$389,079,500 for fiscal year 2007;
- ``(D) \$408,465,500 for fiscal year 2008; and
- ``(E) \$423,717,460 for fiscal year 2009.

``(2) Purposes.--The funds authorized by this subsection shall be used--

``(A) to administer the provisions of law to be financed from appropriations for the Federal-aid highway program and programs authorized under chapter 2; and

``(B) to make transfers of such sums as the Secretary determines to be appropriate to the Appalachian Regional Commission for administrative activities associated with the Appalachian development highway system.

``(3) Availability.--The funds made available under paragraph (1) shall remain available until expended."

(2) Conforming amendments.--Section 104 of such title is amended--

(A) in the matter preceding paragraph (1) of subsection (b), by striking ``the deduction authorized by subsection (a) and the set-aside authorized by subsection (f)" and inserting ``the set-asides authorized by subsections (d) and (f) and section 130(e)";

(B) in the first sentence of subsection (e)(1), by striking `` , and also" and all that follows through ``this section"; and

(C) in subsection (i), by striking ``deducted" and inserting ``made available".

(b) Alaska Highway.--Section 104(b)(1)(A) of such title is amended by striking ``\$18,800,000 for each of fiscal years 1998 through 2002" and inserting ``\$30,000,000 for each of fiscal years 2005 through 2009".

(c) National Highway System Component.--Section 104(b)(1)(A) of such title is amended by striking ``\$36,400,000 for each fiscal year" and inserting ``\$40,000,000 for each of fiscal years 2005 and 2006 and \$50,000,000 for each of fiscal years 2007 through 2009".

(d) CMAQ Apportionment.--Section 104(b)(2) of such title is amended--

(1) in subparagraph (B)--

(A) by striking clause (i) and inserting the following:

``(i) 1.0 if, at the time of apportionment, the area is a maintenance area;"

(B) by striking ``or" at the end of clause (vi);

(C) by striking the period at the end of clause (vii) and inserting ``; or"; and

(D) by adding at the end the following:

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``(viii) 1.0 if, at the time of apportionment,

an area is designated as nonattainment for ozone under subpart 1 of part D of title I of such Act (42 U.S.C. 7512 et seq.); and

(2) by striking subparagraph (C) and inserting the following:

“(C) Additional adjustment for carbon monoxide areas.--If, in addition to being designated as a nonattainment or maintenance area for ozone as described in section 149(b), any county within the area was also classified under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.) as a nonattainment or maintenance area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the county, as determined under clauses (i) through (vi) or clause (viii) of subparagraph (B), shall be further multiplied by a factor of 1.2.”.

(e) Report.--Section 104(j) <<NOTE: 23 USC 104.>> of such title is amended by striking “submit to Congress a report” and inserting “submit to Congress a report, and also make such report available to the public in a user-friendly format via the Internet,”.

(f) Operation Lifesaver.--Section 104(d) of such title is amended--  
(1) by striking paragraph (1) and all that follows through the period at the end of paragraph (2)(A) and inserting the following:

“(1) Operation lifesaver.--To carry out a public information and education program to help prevent and reduce motor vehicle accidents, injuries, and fatalities and to improve driver performance at railway-highway crossings--

“(A) before making an apportionment under subsection (b)(3) for fiscal year 2005, the Secretary shall set aside \$560,000 for such fiscal year; and

“(B) there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) \$560,000 for each of fiscal years 2006 through 2009.

“(2) Railway-highway crossing hazard elimination in high speed rail corridors.--

“(A) Funding.--To carry out the elimination of hazards at railway-highway crossings--

“(i) before making an apportionment under subsection (b)(3) for fiscal year 2005, the Secretary shall set aside \$5,250,000 for such fiscal year; and

“(ii) there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) \$7,250,000 for fiscal year 2006, \$10,000,000 for fiscal year 2007, \$12,500,000 for fiscal year 2008, and \$15,000,000 for fiscal year 2009.”; and

(2) in paragraph (2)(E)--

(A) by striking “Not less than \$250,000 of such

set-aside" and inserting ``Of such set-aside, not less than \$250,000 for fiscal year 2005, \$1,000,000 for fiscal year 2006, \$1,750,000 for fiscal year 2007, \$2,250,000 for fiscal year 2008, and \$3,000,000 for fiscal year 2009"; and  
(B) by striking ``per fiscal year".

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## SEC. 1107. METROPOLITAN PLANNING.

Section 104(f) of title 23, United States Code, is amended--

(1) by striking paragraph (1) and inserting the following:

``(1) Set-aside.--On October 1 of each fiscal year, the Secretary shall set aside 1.25 percent of the funds authorized to be appropriated for the Interstate maintenance, national highway system, surface transportation, congestion mitigation

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and air quality improvement, and highway bridge replacement and rehabilitation programs authorized under this title to carry out the requirements of section 134.";

(2) in paragraph (2) by striking ``per centum" and inserting ``percent";

(3) in paragraph (3)--

(A) by striking ``The funds" and inserting the following:

``(A) In general.--The funds"; and

(B) by striking ``These funds" and all that follows and inserting the following:

``(B) Unused funds.--Any funds that are not used to carry out section 134 may be made available by a metropolitan planning organization to the State to fund activities under section 135."; and

(4) in paragraph (4)--

(A) by striking ``The distribution" and inserting the following:

``(A) In general.--The distribution"; and

(B) by adding at the end the following:

``(B) <<NOTE: Deadline.>> Reimbursement.--Not later than 30 days after the date of receipt by a State of a request for reimbursement of expenditures made by a metropolitan planning organization for carrying out section 134, the State shall reimburse, from funds distributed under this paragraph to the metropolitan planning organization by the State, the metropolitan planning organization for those expenditures.".

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## SEC. 1119. FEDERAL LANDS HIGHWAYS.

(a) Federal Share Payable.--

(1) In general.--Section 120(k) of title 23, United States Code, is amended--

(A) by striking "Federal-aid highway"; and

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(B) by striking "section 104" and inserting "this title or chapter 53 of title 49".

(2) Technical references.--Section 120(l) of such title is amended by striking "section 104" and inserting "this title or chapter 53 of title 49".

(b) Payments to Federal Agencies for Federal-Aid Projects.--Section 132 of such title is amended--

(1) by striking the first two sentences and inserting the following:

"(a) In General.--In a case in which a proposed Federal-aid project is to be undertaken by a Federal agency in accordance with an agreement between a State and the Federal agency, the State may--

"(1) direct the Secretary to transfer the funds for the Federal share of the project directly to the Federal agency; or

"(2) make such deposit with, or payment to, the Federal agency as is required to meet the obligation of the State under the agreement for the work undertaken or to be undertaken by the Federal agency.

"(b) Reimbursement.--On execution with a State of a project agreement described in subsection (a), the Secretary may reimburse the State, using any available funds, for the estimated Federal share under this title of the obligation of the State deposited or paid under subsection (a)(2)."; and

(2) in the last sentence by striking "Any sums" and inserting the following:

"(c) Recovery and Crediting of Funds.--Any sums".

(c) Allocations.--Section 202 of such title is amended--

(1) in subsection (a) by striking "(a) On October 1" and all that follows through "Such allocation" and inserting the following:

"(a) Allocation Based on Need.--

"(1) <<NOTE: Effective date.>> In general.--On October 1 of each fiscal year, the Secretary shall allocate sums authorized to be appropriated for the fiscal year for forest development roads and trails according to the relative needs of the various national forests and grasslands.

"(2) Planning.--The allocation under paragraph (1)";

(2) in subsection (d)(2)--

(A) by adding at the end the following:

"(E) Transferred funds.--

"(i) <<NOTE: Deadline.>> In general.--Not

later than 30 days after the date on which funds are made available to the Secretary of the Interior under this paragraph, the funds shall be distributed to, and available for immediate use by, the eligible Indian tribes, in accordance with the formula for distribution of funds under the Indian reservation roads program.

“(ii) Use of funds.--Notwithstanding any other provision of this section, funds available to Indian tribes for Indian reservation roads shall be expended on projects identified in a transportation improvement program approved by the Secretary.”; and

(B) in subsection (d)(3)(A) by striking “under this title” and inserting “under this chapter and section 125(e)”.

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(d) Federal Lands Highways Program.--Section 202 of such title is amended by striking subsection (b) and inserting the following:

“(b) Allocation for Public Lands Highways.--

“(1) Public lands highways.--

“(A) <<NOTE: Effective date.>> In general.--On October 1 of each fiscal year, the Secretary shall allocate 34 percent of the sums authorized to be appropriated for that fiscal year for public lands highways among those States having unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations, on the basis of need in the States, respectively, as determined by the Secretary, on application of the State transportation departments of the respective States.

“(B) Preference.--In making the allocation under subparagraph (A), the Secretary shall give preference to those projects that are significantly impacted by Federal land and resource management activities that are proposed by a State that contains at least 3 percent of the total public land in the United States.

“(2) Forest highways.--

“(A) <<NOTE: Effective date.>> In general.--On October 1 of each fiscal year, the Secretary shall allocate 66 percent of the funds authorized to be appropriated for public lands highways for forest highways in accordance with section 134 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 202 note; 101 Stat. 173).

“(B) Public access to and within national forest system.--In making the allocation under subparagraph (A), the Secretary shall give equal consideration to projects that provide access to and within the National Forest System, as identified by the Secretary of Agriculture through--

“(i) renewable resource and land use

planning; and

“(ii) assessments of the impact of that planning on transportation facilities.”.

(e) BIA Administrative Expenses.--Section 202(d)(2) of such title (as amended by subsection (c)(2) of this section) is amended by adding at the end the following:

“(F) Administrative expenses.--

“(i) In general.--Of the funds authorized to be appropriated for Indian reservation roads, \$20,000,000 for fiscal year 2006, \$22,000,000 for fiscal year 2007, \$24,500,000 for fiscal year 2008, and \$27,000,000 for fiscal year 2009 may be used by the Secretary of the Interior for program management and oversight and project-related administrative expenses.

“(ii) Health and safety assurances.--

Notwithstanding any other provision of law, an Indian tribal government may approve plans, specifications, and estimates and commence road and bridge construction with funds made available for Indian reservation roads under the Transportation Equity Act for the 21st Century (Public Law 105-178) and SAFETEA-LU through a contract or agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) if the Indian tribal government--

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“(I) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

“(II) obtains the advance review of the plans and specifications from a State-licensed civil engineer that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and

“(III) provides a copy of the certification under subclause (I) to the Deputy Assistant Secretary for Tribal Government Affairs or the Assistant Secretary for Indian Affairs, as appropriate.”.

(f) National Tribal Transportation Facility Inventory.--Section 202(d)(2) of such title (as amended by subsection (e)) is amended by adding at the end the following:

“(G) National tribal transportation facility inventory.--

“(i) <<NOTE: Deadline.>> In general.--Not later than 2 years after the date of enactment of the SAFETEA-LU, the Secretary, in cooperation with the Secretary of the Interior, shall complete a comprehensive national inventory of transportation facilities that are eligible for assistance under the Indian reservation roads program.

“(ii) Transportation facilities included in the inventory.--For purposes of identifying the tribal transportation system and determining the relative transportation needs among Indian tribes, the Secretary shall include, at a minimum, transportation facilities that are eligible for assistance under the Indian reservation roads program that a tribe has requested, including facilities that--

“(I) were included in the Bureau of Indian Affairs system inventory for funding formula purposes in 1992 or any subsequent fiscal year;

“(II) were constructed or reconstructed with funds from the Highway Trust Funds (other than the Mass Transit Account) under the Indian reservation roads program since 1983;

“(III) are owned by an Indian tribal government; or

“(IV) are community streets or bridges within the exterior boundary of Indian reservations, Alaska Native villages, and other recognized Indian communities (including communities in former Indian reservations in Oklahoma) in which the majority of residents are American Indians or Alaska Natives; or

“(V) are primary access routes proposed by tribal governments, including roads between villages, roads to landfills, roads to drinking water sources, roads to natural resources identified for economic development, and roads that provide access to intermodal termini, such as airports, harbors, or boat landings.

“(iii) Limitation on primary access routes.--For purposes of this subparagraph, a proposed primary

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access route is the shortest practicable route connecting 2 points of the proposed route.

“(iv) Additional facilities.--Nothing in this subparagraph shall preclude the Secretary from

including additional transportation facilities that are eligible for funding under the Indian reservation roads program in the inventory used for the national funding allocation if such additional facilities are included in the inventory in a uniform and consistent manner nationally.

“(v) Report to congress.--Not later than 90 days after the date of completion of the inventory under this subparagraph, the Secretary shall prepare and submit a report to Congress that includes the data gathered and the results of the inventory.”.

(g) Indian Reservation Road Bridges.--Section 202(d)(4) of such title is amended--

(1) in subparagraph (B)--

(A) by striking “(B) Reservation.--Of the amounts” and all that follows through “to replace,” and inserting the following:

“(B) Funding.--

“(i) Authorization of appropriations.--In addition to any other funds made available for Indian reservation roads for each fiscal year, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) \$14,000,000 for each of fiscal years 2005 through 2009 to carry out planning, design, engineering, preconstruction, construction, and inspection of projects to replace,”; and

(B) by adding at the end the following:

“(ii) Availability.--Funds made available to carry out this subparagraph shall be available for obligation in the same manner as if such funds were apportioned under chapter 1.”;

(2) in subparagraph (C) by striking clause (iii) and inserting the following:

“(iii) be structurally deficient or functionally obsolete; and”; and

(3) by striking subparagraph (D) and inserting the following:

“(D) Approval requirement.--

“(i) In general.--Subject to clause (ii), on request by an Indian tribe or the Secretary of the Interior, the Secretary may make funds available under this subsection for preliminary engineering for Indian reservation road bridge projects.

“(ii) Construction and construction engineering.--The Secretary may make funds available under clause (i) for construction and construction engineering after approval of applicable plans, specifications, and estimates in accordance with this title.”.

(4) Contracts and agreements with indian tribes.--Section

202(d) of such title is amended by adding at the end the following:

“(5) Contracts and agreements with Indian tribes.--

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“(A) In general.--Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available to an Indian tribal government under this chapter for a highway, road, bridge, parkway, or transit facility program or project that is located on an Indian reservation or provides access to the reservation or a community of the Indian tribe shall be made available, on the request of the Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), contracts and agreements for the planning, research, design, engineering, construction, and maintenance relating to the program or project.

“(B) Exclusion of agency participation.--In accordance with subparagraph (A), all funds for a program or project to which subparagraph (A) applies shall be paid to the Indian tribal government without regard to the organizational level at which the Department of the Interior has previously carried out, or the Department of Transportation has previously carried out under the Federal lands highway programs, the programs, functions, services, or activities involved.

“(C) Consortia.--Two or more Indian tribes that are otherwise eligible to participate in a program or project to which this chapter applies may form a consortium to be considered as a single Indian tribe for the purpose of participating in the project under this section.

“(D) Secretary as signatory.--Notwithstanding any other provision of law, the Secretary is authorized to enter into a funding agreement with an Indian tribal government to carry out a highway, road, bridge, parkway, or transit program or project under subparagraph (A) that is located on an Indian reservation or provides access to the reservation or a community of the Indian tribe.

“(E) Funding.--The amount an Indian tribal government receives for a program or project under subparagraph (A) shall equal the sum of the funding that the Indian tribal government would otherwise receive for the program or project in accordance with the funding formula established under this subsection and such additional amounts as the Secretary determines equal the amounts that would have been withheld for the costs of the Bureau of Indian Affairs for administration of the

program or project.

“(F) Eligibility.--

“(i) In general.--Subject to clause (ii), funds may be made available under subparagraph (A) to an Indian tribal government for a program or project in a fiscal year only if the Indian tribal government requesting such funds demonstrates to the satisfaction of the Secretary financial stability and financial management capability during the 3 fiscal years immediately preceding the fiscal year for which the request is being made.

“(ii) Criteria for determining financial stability and financial management capability.--An Indian tribal government that had no uncorrected

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significant and material audit exceptions in the required annual audit of the Indian tribal government self-determination contracts or self-governance funding agreements with any Federal agency during the 3-fiscal year period referred in clause (i) shall be conclusive evidence of the financial stability and financial management capability for purposes of clause (i).

“(G) Assumption of functions and duties.--An Indian tribal government receiving funding under subparagraph (A) for a program or project shall assume all functions and duties that the Secretary of the Interior would have performed with respect to a program or project under this chapter, other than those functions and duties that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.).

“(H) Powers.--An Indian tribal government receiving funding under subparagraph (A) for a program or project shall have all powers that the Secretary of the Interior would have exercised in administering the funds transferred to the Indian tribal government for such program or project under this section if the funds had not been transferred, except to the extent that such powers are powers that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.).

“(I) Dispute resolution.--In the event of a disagreement between the Secretary or the Secretary of the Interior and an Indian tribe over whether a particular function, duty, or power may be lawfully transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), the Indian tribe shall have the right to pursue all alternative dispute resolutions and appeal procedures authorized by such Act, including regulations issued to

carry out such Act.

“(J) Termination of contract or agreement.--On the date of the termination of a contract or agreement under this section by an Indian tribal government, the Secretary shall transfer all funds that would have been allocated to the Indian tribal government under the contract or agreement to the Secretary of the Interior to provide continued transportation services in accordance with applicable law.”.

(h) Planning and Agency Coordination.--Section 204 of such title is amended--

(1) in subsection (a)(1) by inserting “refuge roads,” after “parkways,”; and

(2) by striking subsection (b) and inserting the following:

“(b) Use of Funds.--

“(1) In general.--Funds made available for public lands highways, park roads and parkways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay the cost of--

“(A) transportation planning, research, and engineering and construction of, highways, roads, parkways, and transit

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facilities located on public lands, national parks, and Indian reservations; and

“(B) operation and maintenance of transit facilities located on public lands, national parks, and Indian reservations.

“(2) Contract.--In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a contract or other appropriate agreement with respect to such activity with--

“(A) a State (including a political subdivision of a State); or

“(B) an Indian tribe.

“(3) Indian reservation roads.--In the case of an Indian reservation road--

“(A) Indian labor may be employed, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1); and

“(B) funds made available to carry out this section may be used to pay bridge preconstruction costs (including planning, design, and engineering).

“(4) Federal employment.--No maximum limitation on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

“(5) Availability of funds.--Funds made available under

this section for each class of Federal lands highways shall be available for any transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, the areas served by the particular class of Federal lands highways.

“(6) Reservation of funds.--The Secretary of the Interior may reserve funds from administrative funds of the Bureau of Indian Affairs that are associated with the Indian reservation roads program to finance Indian technical centers under section 504(b).”.

(i) Maintenance of Indian Reservation Roads.--Section 204(c) of such title is amended by striking the second and third sentences and inserting the following: “Notwithstanding any other provision of this title, of the amount of funds allocated for Indian reservation roads from the Highway Trust Fund, not more than 25 percent of the funds allocated to an Indian tribe may be expended for the purpose of maintenance, excluding road sealing which shall not be subject to any limitation. The Bureau of Indian Affairs shall continue to retain primary responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations. The Secretary shall ensure that funding made available under this subsection for maintenance of Indian reservation roads for each fiscal year is supplementary to and not in lieu of any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations.”.

(j) Refuge Roads.--Section 204(k)(1) of such title is amended--

(1) in subparagraph (B)--

(A) by striking “(2), (5),” and inserting “(2),

(3), (5),”; and

(B) by striking “and” after the semicolon;

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(2) in subparagraph (C) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(D) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within a wildlife refuge; and

“(E) maintenance and improvement of recreational trails; except that expenditures on trails under this subparagraph shall not exceed 5 percent of available funds for each fiscal year.”.

(k) Tribal-State Road Maintenance Agreements.--Section 204 of such title is amended by adding at the end the following:

“(l) Tribal-State Road Maintenance Agreements.--

“(1) In general.--An Indian tribe and a State may enter into a road maintenance agreement under which an Indian tribe assumes the responsibilities of the State for--

“(A) Indian reservation roads; and

“(B) roads providing access to Indian reservation

roads.

((2) Tribal-state agreements.--Agreements entered into under paragraph (1)--

((A) shall be negotiated between the State and the Indian tribe; and

((B) shall not require the approval of the Secretary.

((3) <<NOTE: Effective date.>> Annual report.--Effective beginning with fiscal year 2005, the Secretary shall prepare and submit to Congress an annual report that identifies--

((A) the Indian tribes and States that have entered into agreements under paragraph (1);

((B) the number of miles of roads for which Indian tribes have assumed maintenance responsibilities; and

((C) the amount of funding transferred to Indian tribes for the fiscal year under agreements entered into under paragraph (1).".

(l) Deputy Assistant Secretary of Transportation for Tribal Government Affairs.--Section 102 of title 49, United States Code, is amended--

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

((f) Deputy Assistant Secretary for Tribal Government Affairs.--

((1) <<NOTE: President.>> Establishment.--In accordance with Federal policies promoting Indian self determination, the Department of Transportation shall have, within the office of the Secretary, a Deputy Assistant Secretary for Tribal Government Affairs appointed by the President to plan, coordinate, and implement the Department of Transportation policy and programs serving Indian tribes and tribal organizations and to coordinate tribal transportation programs and activities in all offices and administrations of the Department and to be a participant in any negotiated rulemaking relating to, or having an impact on, projects, programs, or funding associated with the tribal transportation program.

((2) Reservation of trust obligations.--

((A) Responsibility of secretary.--In carrying out this title, the Secretary shall be responsible to exercise the trust obligations of the United States to Indians and

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Indian tribes to ensure that the rights of a tribe or individual Indian are protected.

((B) Preservation of united states responsibility.--Nothing in this title shall absolve the United States from any responsibility to Indians and Indian tribes, including responsibilities derived from the trust relationship and any treaty, executive order, or agreement between the United States and an Indian

tribe.".

(m) Forest Highways.--Of the amounts made available for public lands highways under section 1101--

(1) not to exceed \$20,000,000 per fiscal year may be used for the maintenance of forest highways;

(2) not to exceed \$1,000,000 per fiscal year may be used for signage identifying public hunting and fishing access; and

(3) not to exceed \$10,000,000 per fiscal year shall be used by the Secretary of Agriculture to pay the costs of facilitating the passage of aquatic species beneath roads in the National Forest System, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate.

(n) <<NOTE: 23 USC 401 note.>> Wildlife Vehicle Collision Reduction Study.--

(1) In general.--The Secretary shall conduct a study of methods to reduce collisions between motor vehicles and wildlife (in this subsection referred to as ``wildlife vehicle collisions").

(2) Contents.--

(A) Areas of study.--The study shall include an assessment of the causes and impacts of wildlife vehicle collisions and solutions and best practices for reducing such collisions.

(B) Methods for conducting the study.--In carrying out the study, the Secretary shall--

(i) conduct a thorough literature review; and

(ii) survey current practices of the

Department of Transportation.

(3) Consultation.--In carrying out the study, the Secretary shall consult with appropriate experts in the field of wildlife vehicle collisions.

(4) Report.--

(A) In general.--Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study.

(B) Contents.--The report shall include a description of each of the following:

(i) Causes of wildlife vehicle collisions.

(ii) Impacts of wildlife vehicle collisions.

(iii) Solutions to and prevention of wildlife vehicle collisions.

(5) Manual.--

(A) Development.--Based upon the results of the study, the Secretary shall develop a best practices manual to support State efforts to reduce wildlife vehicle collisions.

(B) <<NOTE: Deadline.>> Availability.--The manual shall be made available to States not later than 1 year after the date of transmission of the report under paragraph (4).

(C) Contents.--The manual shall include, at a minimum, the following:

(i) A list of best practices addressing wildlife vehicle collisions.

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(ii) A list of information, technical, and funding resources for addressing wildlife vehicle collisions.

(iii) Recommendations for addressing wildlife vehicle collisions.

(iv) Guidance for developing a State action plan to address wildlife vehicle collisions.

(6) Training.--Based upon the manual developed under paragraph (5), the Secretary shall develop a training course on addressing wildlife vehicle collisions for transportation professionals.

(o) Limitation on Applicability.--The requirements of the January 4, 2005, Federal Highway Administration, a final rule on the implementation of the Uniform Relocation Assistance and Real Property Acquisition policy Act of 1970 (42 U.S.C. 4601 et seq.) shall not apply to the voluntary conservation easement activities of the Department of Agriculture or the Department of the Interior.

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#### SEC. 1940. GOING-TO-THE-SUN ROAD, GLACIER NATIONAL PARK, MONTANA.

(a) Project Authorization.--There is authorized to be appropriated to the Secretary from the Highway Trust Fund (other than the Mass Transit Account) to resurface, repair, rehabilitate, and reconstruct the Going-to-the-Sun Road at Glacier National Park, Montana, in accordance with the framework identified in Alternative 3 (shared use alternative) of the environmental impact statement and record of decision dated 2003 and relating to the Going-to-the-Sun Road, to remain available until expended--

- (1) \$10,000,000 for fiscal year 2005;
- (2) \$10,000,000 for fiscal year 2006;
- (3) \$10,000,000 for fiscal year 2007;
- (4) \$10,000,000 for fiscal year 2008; and
- (5) \$10,000,000 for fiscal year 2009.

(b) Federal Share.--The Federal share of the costs of the project described in subsection (a) shall be 100 percent.

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