units of local and regional government consistent with the policy of subsection (d) of this section. Such grants and loans shall be awarded in a manner which emphasizes energy conservation, although the Secretary may use other factors as he deems appropriate. The Federal share of the costs of any project approved under this subsection shall not exceed 75 percent. No grant awarded under this subsection may be used for the purchase or lease of vehicles.

“(f) There is hereby authorized to be appropriated, out of the Highway Trust Fund, not to exceed $1,000,000 for the fiscal year ending September 30, 1979, $1,000,000 for the fiscal year ending September 30, 1980, and $1,000,000 for the fiscal year ending September 30, 1981, for expenditures incurred by the Secretary of Transportation in carrying out the provisions of subsection (d) of this section, and $5,000,000 for the fiscal year ending September 30, 1979, and $9,000,000 for the fiscal year ending September 30, 1980, for the purpose of carrying out the program described in subsection (e) of this section.

“(g) The Secretary of Transportation shall not approve any project under subsection (d) or (e) of this section or under section 146 of title 23, United States Code; which will have an adverse effect on any mass transportation system.

“(h) The Secretary of Transportation is directed to study the administrative effectiveness of carpooling and vanpooling programs within the Department of Transportation, including programs of the Federal Highway Administration, the Federal Transit Administration, and the Office of the Secretary. Such study may be completed no later than September 30, 1979. Upon completion of such study, the Secretary shall propose a plan to centralize or modify such programs to make delivery of services and grants more efficient, more cost-effective, and to avoid duplication of effort. Such plan shall list statutory changes needed to implement such a plan, which shall be sent to Congress no later than March 30, 1980.

“(‘Federal Transit Administration’ substituted for ‘Urban Mass Transit Administration’ in section 126(h) of Pub. L. 95–599, set out above, pursuant to section 107 of Title 49, Transportation.)

FEDERAL FACILITY RIDESHARING PROGRAM


§ 147. Construction of ferry boats and ferry terminal facilities

(a) In general.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c).

(b) Federal share.—The Federal share of the cost of construction of ferry boats, ferry terminals, and ferry maintenance facilities under this section shall be 80 percent.

(c) Allocation of funds.—The Secretary shall give priority in the allocation of funds under this section to those ferry systems, and public entities responsible for developing ferries, that—

(1) provide critical access to areas that are not well-served by other modes of surface transportation;

(2) carry the greatest number of passengers and vehicles; or

(3) carry the greatest number of passengers in passenger-only service.

(d) Set-Aside for Projects on NHS.—

(1) In general.—$20,000,000 of the amount made available to carry out this section for each of fiscal years 2005 through 2009 shall be obligated for the construction or refurbishment of ferry boats and ferry terminal facilities and approaches to such facilities within marine highway systems that are part of the National Highway System.

(2) Alaska.—$10,000,000 of the $20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of Alaska.

(3) New Jersey.—$5,000,000 of the $20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of New Jersey.

(4) Washington.—$5,000,000 of the $20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of Washington.

(e) Period of availability.—Notwithstanding section 118(b), funds made available to carry out this section shall remain available until expended.

(f) Applicability.—All provisions of this chapter that are applicable to the National Highway System, other than provisions relating to apportionment formula and Federal share, shall apply to funds made available to carry out this section, except as determined by the Secretary to be inconsistent with this section.


AMENDMENTS


AUTHORIZATION OF APPROPRIATIONS

Pub. L. 109–59, title I, §1801(d), Aug. 10, 2005, 119 Stat. 1456, provided that: “In addition to amounts made available to carry out section 147 of title 23, United States Code, by section 1101 of this Act [119 Stat. 1153], there are authorized to be appropriated such sums as may be necessary to carry out such section 147 for fiscal year 2006 and each fiscal year thereafter. Such funds shall remain available until expended.”

§ 148. Highway safety improvement program

(a) Definitions.—In this section, the following definitions apply:

(1) High risk rural road.—The term ‘high risk rural road’ means any roadway functionally classified as a rural major or minor collector or a rural local road—

(A) on which the accident rate for fatalities and incapacitating injuries exceeds the statewide average for those functional classes of roadway; or

(B) that will likely have increases in traffic volume that are likely to create an acci-
dient rate for fatalities and incapacitating injuries that exceeds the statewide average for those functional classes of roadway.

(2) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term “highway safety improvement program” means the program carried out under this section.

(3) HIGHWAY SAFETY IMPROVEMENT PROJECT.—
(A) IN GENERAL.—The term “highway safety improvement project” means a project described in the State strategic highway safety plan that—
(i) corrects or improves a hazardous road location or feature; or
(ii) addresses a highway safety problem.

(B) INCLUSIONS.—The term “highway safety improvement project” includes a project for one or more of the following:
(i) An intersection safety improvement.
(ii) Pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition).
(iii) Installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists, pedestrians, and the disabled.
(iv) Installation of a skid-resistant surface at an intersection or other location with a high frequency of accidents.
(v) An improvement for pedestrian or bicyclist safety or safety of the disabled.
(vi) Construction of any project for the elimination of hazards at a railway-highway crossing that is eligible for funding under section 130, including the separation or protection of grades at railway-highway crossings.
(vii) Construction of a railway-highway crossing safety feature, including installation of protective devices.
(viii) The conduct of a model traffic enforcement activity at a railway-highway crossing.
(ix) Construction of a traffic calming feature.
(x) Elimination of a roadside obstacle.
(xi) Improvement of highway signage and pavement markings.
(xii) Installation of a priority control system for emergency vehicles at signalized intersections.
(xiii) Installation of a traffic control or other warning device at a location with high accident potential.
(xiv) Safety-conscious planning.
(xv) Improvement in the collection and analysis of crash data.
(xvi) Planning integrated interoperable emergency communications equipment, operational activities, or traffic enforcement activities (including police assistance) relating to workzone safety.
(xvii) Installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of motorists and workers), and crash attenuators.
(xviii) The addition or retrofitting of structures or other measures to eliminate or reduce accidents involving vehicles and wildlife.
(xix) Installation and maintenance of signs (including fluorescent, yellow-green signs) at pedestrian-bicycle crossings and in school zones.
(xx) Construction and yellow-green signs at pedestrian-bicycle crossings and in school zones.
(xxii) Construction and operational improvements on high risk rural roads.

(4) SAFETY PROJECT UNDER ANY OTHER SECTION.—
(A) IN GENERAL.—The term “safety project under any other section” means a project carried out for the purpose of safety under any other section of this title.

(B) INCLUSION.—The term “safety project under any other section” includes a project to promote the awareness of the public and educate the public concerning highway safety matters (including motorcyclist safety) and a project to enforce highway safety laws.

(5) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term “State highway safety improvement program” means projects or strategies included in the State strategic highway safety plan carried out as part of the State transportation improvement program under section 158.

(6) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term “State strategic highway safety plan” means a plan developed by the State transportation department that—
(A) is developed after consultation with—
(i) a highway safety representative of the Governor of the State;
(ii) regional transportation planning organizations and metropolitan planning organizations, if any;
(iii) representatives of major modes of transportation;
(iv) State and local traffic enforcement officials;
(v) persons responsible for administering section 130 at the State level;
(vi) representatives conducting Operation Lifesaver;
(vii) representatives conducting a motor carrier safety program under section 31102, 31106, or 31309 of title 49;
(viii) motor vehicle administration agencies; and
(ix) other major State and local safety stakeholders;
(B) analyzes and makes effective use of State, regional, or local crash data;
(C) addresses engineering, management, operation, education, enforcement, and emergency services elements (including integrated, interoperable emergency communications) of highway safety as key factors in evaluating highway projects;
(D) considers safety needs of, and high-fatality segments of, public roads;
(E) considers the results of State, regional, or local transportation and highway safety planning processes;
(F) describes a program of projects or strategies to reduce or eliminate safety hazards;
§ 148  

(b) PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.

(c) ELIGIBILITY.—

(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(5) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

(A) develops and implements a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in paragraph (2);

(B) produces a program of projects or strategies to reduce identified safety problems;

(C) evaluates the plan on a regular basis to ensure the accuracy of the data and priority of proposed improvements; and

(D) submits to the Secretary an annual report that—

(i) describes, in a clearly understandable fashion, not less than 5 percent of locations determined by the State, using criteria established in accordance with paragraph (2)(B)(ii), as exhibiting the most severe safety needs; and

(ii) contains an assessment of—

(I) potential remedies to hazardous locations identified;

(II) estimated costs associated with those remedies; and

(III) impediments to implementation other than those associated with those remedies.

(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State strategic highway safety plan, a State shall—

(A) have in place a crash data system with the ability to perform safety problem identification and countermeasure analysis; and

(B) based on the analysis required by subparagraph (A)—

(i) identify hazardous locations, sections, and elements (including roadside obstacles, highway-crossing crossings, and unmarked or poorly marked roads) that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, and other highway users; and

(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of accidents, injuries, deaths, traffic volume levels, and other relevant data;

(C) adopt strategic and performance-based goals that—

(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;

(ii) focus resources on areas of greatest need; and

(iii) are coordinated with other State highway safety programs;

(D) advance the capabilities of the State for traffic records data collection, analysis, and integration with other sources of safety data (such as road inventories) in a manner that—

(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31002 of title 49;

(ii) includes all public roads;

(iii) identifies hazardous locations, sections, and elements on public roads that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, the disabled, and other highway users; and

(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of accidents, injuries, deaths, and traffic volume levels;

(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including highway-highway crossing improvements), as identified through crash data analysis;

(ii) identify opportunities for preventing the development of such hazardous conditions; and

(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

(d) ELIGIBLE PROJECTS.—

(1) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) to carry out—

(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail; or

(B) as provided in subsection (e), other safety projects.

(2) USE OF OTHER FUNDING FOR SAFETY.—

(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of their safety needs and opportunities by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

(e) FLEXIBLE FUNDING FOR STATES WITH A STRATEGIC HIGHWAY SAFETY PLAN.—

(1) IN GENERAL.—To further the implementation of a State strategic highway safety plan, a State may use up to 10 percent of the amount of funds apportioned to the State.
under section 104(b)(5) for a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan if the State certifies that—

(A) the State has met needs in the State relating to railway-highway crossings; and

(B) the State has met the State’s infrastructure safety needs relating to highway safety improvement projects.

(2) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—Nothing in this subsection requires a State to revise any State process, plan, or program in effect on the date of enactment of this section.

(f) HIGH RISK RURAL ROADS.—

(1) IN GENERAL.—After making an apportionment under section 104(b)(5) for a fiscal year beginning after September 30, 2005, the Secretary shall ensure, from amounts made available to carry out this section for such fiscal year, that a total of $90,000,000 of such apportionment is set aside by the States, proportionally according to the share of each State of the total amount so apportioned, for use only for construction and operational improvements on high risk rural roads.

(2) SPECIAL RULE.—A State may use funds apportioned to the State pursuant to this subsection for any project under this section if the State certifies to the Secretary that the State has met all of State needs for construction and operational improvements on high risk rural roads.

(g) REPORTS.—

(1) IN GENERAL.—A State shall submit to the Secretary a report that—

(A) describes progress being made to implement highway safety improvement projects under this section;

(B) assesses the effectiveness of those improvements; and

(C) describes the extent to which the improvements funded under this section contribute to the goals of—

(i) reducing the number of fatalities on roadways;

(ii) reducing the number of roadway-related injuries;

(iii) reducing the occurrences of roadway-related crashes;

(iv) mitigating the consequences of roadway-related crashes; and

(v) reducing the occurrences of crashes at railway-highway crossings.

(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for a report under paragraph (1).

(3) TRANSPARENCY.—The Secretary shall make reports submitted under subsection (c)(1)(D) available to the public through—

(A) the Web site of the Department; and

(B) such other means as the Secretary determines to be appropriate.

(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for any purpose directly relating to paragraph (1) or subsection (c)(1)(D), or published by the Secretary in accordance with paragraph (3), shall not be subject to discovery or admitted into evidence in any Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence and location identified or addressed in such reports, surveys, schedules, lists, or other data.

(b) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds apportioned to a State under section 104(b)(5) shall be 90 percent.


REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (e)(2), probably means the date of enactment of Pub. L. 109–59, which amended this section generally and was approved Aug. 10, 2005.

AMENDMENTS

2005—Pub. L. 109–59 amended section catchline and text generally, substituting provisions relating to a highway safety improvement program for provisions relating to development of the Great River Road, a national scenic and recreational highway.

1978—Subsec. (a)(5). Pub. L. 95–599, §129(b), inserted provision authorizing charging of a fee in certain cases to cover operational costs.

Subsec. (e). Pub. L. 95–599, §129(d), substituted “75 per cent” for “70 per cent”.


EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 129(d) of Pub. L. 95–599 effective with respect to obligations incurred after Nov. 6, 1978, see section 129(h) of Pub. L. 95–599, set out as a note under section 129 of this title.

TRANSITION


“(1) IMPLEMENTATION.—Except as provided in paragraph (2), the Secretary [of Transportation] shall approve obligations of funds apportioned under section 104(b)(5) of title 23, United States Code (as added by subsection (b)), to carry out section 148 of that title, only if, not later than October 1 of the second fiscal year beginning after the date of enactment of this Act [Aug. 10, 2005], a State has developed and implemented a State strategic highway safety plan as required pursuant to section 148(c) of that title.

“(2) INTERIM PERIOD.—

“(A) IN GENERAL.—Before October 1 of the second fiscal year after the date of enactment of this Act and until the date on which a State develops and implements a State strategic highway safety plan, the Secretary shall apportion funds to a State for the highway safety improvement program and the State may obligate funds apportioned to the State for the highway safety improvement program under section 148 for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

“(B) NO STRATEGIC HIGHWAY SAFETY PLAN.—If a State has not developed a strategic highway safety plan by October 1, 2007, the State shall receive for the
highway safety improvement program for each subse-
quently fiscal year until the date of development of
such plan an amount that equals the amount ap-
portioned to the State for that program for fiscal year
2007.

§ 149. Congestion mitigation and air quality improve-
ment program

(a) Establishment.—The Secretary shall es-
lish and implement a congestion mitigation and air quality improvement program in accord-
ance with this section.

(b) Eligible Projects.—Except as provided in
subsection (c), a State may obligate funds ap-
portioned to it under section 104(b)(2) for the con-
gestion mitigation and air quality improve-
ment program only for a transportation project or
program the project or program is for an area in the State that—

(1) is or was designated as a nonattainment area for ozone, carbon monoxide,
or particulate matter under section 107(d) of the
Clean Air Act (42 U.S.C. 7407(d)) and classified
as a nonattainment area under such section 107(d)
after December 31, 1997, or is required to pre-
pare, and file with the Administrator of the En-
vironmental Protection Agency, a State implementa-
tion plan that has been ap-
proved pursuant to the Clean Air Act and the

(2) is a project or program in which funds
are eligible for assistance under this section
as if the project were carried out in a State that—

(1) is or was designated as a nonattainment area for ozone, carbon monoxide,
or particulate matter under section 107(d) of the
Clean Air Act (42 U.S.C. 7407(d)) and classified
as a nonattainment area under such section 107(d)
after December 31, 1997, or is required to pre-
pare, and file with the Administrator of the En-
vironmental Protection Agency, a State implementa-
tion plan that has been ap-
proved pursuant to the Clean Air Act and the

(2) has a nonattainment area designated under
section 133.

(c) States Receiving Minimum Apportion-
ment.—If a State does not have, and never has
had, a nonattainment area designated under
the Clean Air Act (42 U.S.C. 7401 et seq.), the
State may use funds apportioned to the State
under section 104(b)(2) for any project in the State
that—

(1) would otherwise be eligible under this section as if the project were carried out in
a nonattainment or maintenance area; or

(2) is eligible under the surface transpor-
tation program under section 133.

No funds may be provided under this section for
a project which will result in the construction of
new capacity available to single occupant vehi-
cles unless the project consists of a high occu-
pancy vehicle facility available to single occup-
ant vehicles only at other than peak travel
times. In areas of a State which are nonattain-
ment areas for ozone, PM_{10}, or PM_{2.5}
(as defined under the Clean Air Act (42
U.S.C. 7401 et seq.)) and—

(I) the maintenance of a national ambient
air quality standard; or

(II) if the project or program is included in a project which will result in the construction of
new capacity available to single occupant vehi-
cles辞职 unless the project consists of a high occu-
pancy vehicle facility available to single occup-
ant vehicles only at other than peak travel
times. In areas of a State which are nonattain-
ment areas for ozone, PM_{10}, or PM_{2.5}
(as defined under the Clean Air Act (42
U.S.C. 7401 et seq.)) and—

(I) the attainment of a national ambient
air quality standard; or

(II) a high level of effectiveness in reducing
air pollution, in cases of programs or projects where sufficient information is available in
the database established pursuant to sub-
section (b) to determine the relative effective-
ness of such projects or programs; or

(III) published in the list under subsection
(i) of non-road vehicles and non-road
engines (as defined in section 216 of the Clean
Air Act (42 U.S.C. 7550)) that are
used in construction projects that are—

(I) located in nonattainment or main-
tenance areas for ozone, PM_{10}, or PM_{2.5}
(as defined under the Clean Air Act (42
U.S.C. 7401 et seq.)) and

(II) funded, in whole or in part, under
this title; or

(B) the conduct of outreach activities that
are designed to provide information and
technical assistance to the owners and oper-
ators of diesel equipment and vehicles re-
garding the purchase and installation of die-
sel retrofits.

Environmental Protection Agency, determines
that the facility or program is likely to con-
tribute to the attainment of a national ambient
air quality standard;

(5) if the program or project improves traffic
flow, including projects to improve signalization,
construct high occupancy vehicle lanes,
intersections, improve transportation
system strategies and such other projects that
are eligible for assistance under this section
on the day before the date of enactment of
this paragraph:

(6) if the project or program involves the
purchase of integrated, interoperable emer-
gency communications equipment; or

(7) if the project or program is for—

(A) the purchase of diesel retrofits that are—

(i) for motor vehicles (as defined in sec-
tion 216 of the Clean Air Act (42 U.S.C.
7550)); or

(ii) published in the list under subsection
(f)(2) for non-road vehicles and non-road
engines (as defined in section 216 of the Clean
Air Act (42 U.S.C. 7550)) that are
used in construction projects that are—

(I) located in nonattainment or main-
tenance areas for ozone, PM_{10}, or PM_{2.5}
(as defined under the Clean Air Act (42
U.S.C. 7401 et seq.)); and

(II) funded, in whole or in part, under
this title; or

(B) the conduct of outreach activities that
are designed to provide information and
technical assistance to the owners and oper-
ators of diesel equipment and vehicles re-
garding the purchase and installation of die-
sel retrofits.