

TAKING OF PRIVATE PROPERTY WITHOUT JUST  
COMPENSATION

Pub. L. 89-285, title IV, §401, Oct. 22, 1965, 79 Stat. 1033, provided that: "Nothing in this Act or the amendments made by this Act [amending this section and section 319 of this title and enacting section 136 of this title and provisions set out as notes under sections 131, 135, and 136 of this title] shall be construed to authorize private property to be taken or the reasonable and existing use restricted by such taking without just compensation as provided in this Act."

AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR  
ADMINISTRATIVE EXPENSES

Pub. L. 89-285, title IV, §402, Oct. 22, 1965, 79 Stat. 1033, as amended by Pub. L. 97-449, §2(a), Jan. 12, 1983, 96 Stat. 2439, provided that: "In addition to any other amounts authorized by this Act and the amendments made by this Act [amending this section and section 319 of this title and enacting section 136 of this title and provisions set out as notes under this section and sections 135 and 136 of this title], there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Secretary not to exceed \$5,000,000 for administrative expenses in carrying out this Act (including amendments made by this Act)."

**§ 132. Payments on Federal-aid projects undertaken by a Federal agency**

(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).

(c) **RECOVERY AND CREDITING OF FUNDS.**—Any sums reimbursed to the State under this section which may be in excess of the Federal pro rata share under the provisions of this title of the State's share of the cost as set forth in the approved final voucher submitted by the State shall be recovered and credited to the same class of funds from which the Federal payment under this section was made.

(Added Pub. L. 86-657, §4(a), July 14, 1960, 74 Stat. 522; amended Pub. L. 109-59, title I, §1119(b), Aug. 10, 2005, 119 Stat. 1182.)

AMENDMENTS

2005—Pub. L. 109-59 designated third sentence as subsec. (c), inserted heading, and substituted subsecs. (a) and (b) for first and second sentences which read as follows: "Where a proposed Federal-aid project is to be undertaken by a Federal agency pursuant to an agreement between a State and such Federal agency and the State makes a deposit with or payment to such Federal agency as may be required in fulfillment of the State's obligation under such agreement for the work undertaken or to be undertaken by such Federal agency, the

Secretary, upon execution of a project agreement with such State for the proposed Federal-aid project, may reimburse the State out of the appropriate appropriations the estimated Federal share under the provisions of this title of the State's obligation so deposited or paid by such State. Upon completion of such project and its acceptance by the Secretary, an adjustment shall be made in such Federal share payable on account of such project based on the final cost thereof."

**§ 133. Surface transportation program**

(a) **ESTABLISHMENT.**—The Secretary shall establish a surface transportation program in accordance with this section.

(b) **ELIGIBLE PROJECTS.**—A State may obligate funds apportioned to it under section 104(b)(2) for the surface transportation program only for the following:

(1) Construction, reconstruction, rehabilitation, resurfacing, restoration, preservation, or operational improvements for highways, including construction of designated routes of the Appalachian development highway system and local access roads under section 14501 of title 40.

(2) Replacement (including replacement with fill material), rehabilitation, preservation, protection (including painting, scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) and application of calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing compositions for bridges (and approaches to bridges and other elevated structures) and tunnels on public roads of all functional classifications, including any such construction or reconstruction necessary to accommodate other transportation modes.

(3) Construction of a new bridge or tunnel at a new location on a Federal-aid highway.

(4) Inspection and evaluation of bridges and tunnels and training of bridge and tunnel inspectors (as defined in section 144), and inspection and evaluation of other highway assets (including signs, retaining walls, and drainage structures).

(5) Capital costs for transit projects eligible for assistance under chapter 53 of title 49, including vehicles and facilities, whether publicly or privately owned, that are used to provide intercity passenger service by bus.

(6) Carpool projects, fringe and corridor parking facilities and programs, including electric vehicle and natural gas vehicle infrastructure in accordance with section 137, bicycle transportation and pedestrian walkways in accordance with section 217, and the modifications of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(7) Highway and transit safety infrastructure improvements and programs, installation of safety barriers and nets on bridges, hazard eliminations, projects to mitigate hazards caused by wildlife, and railway-highway grade crossings.

(8) Highway and transit research and development and technology transfer programs.

(9) Capital and operating costs for traffic monitoring, management, and control facili-

ties and programs, including advanced truck stop electrification systems.

(10) Surface transportation planning programs.

(11) Transportation alternatives.

(12) Transportation control measures listed in section 108(f)(1)(A) (other than clause (xvi)) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A)).

(13) Development and establishment of management systems<sup>1</sup>

(14) Environmental mitigation efforts relating to projects funded under this title in the same manner and to the same extent as such activities are eligible under section 119(g).

(15) Projects relating to intersections that—  
(A) have disproportionately high accident rates;

(B) have high levels of congestion, as evidenced by—

(i) interrupted traffic flow at the intersection; and

(ii) a level of service rating that is not better than “F” during peak travel hours, calculated in accordance with the Highway Capacity Manual issued by the Transportation Research Board; and

(C) are located on a Federal-aid highway.

(16) Infrastructure-based intelligent transportation systems capital improvements.

(17) Environmental restoration and pollution abatement in accordance with section 328.

(18) Control of noxious weeds and aquatic noxious weeds and establishment of native species in accordance with section 329.

(19) Projects and strategies designed to support congestion pricing, including electric toll collection and travel demand management strategies and programs.

(20) Recreational trails projects eligible for funding under section 206.

(21) Construction of ferry boats and ferry terminal facilities eligible for funding under section 129(c).

(22) Border infrastructure projects eligible for funding under section 1303 of the SAFETEA-LU (23 U.S.C. 101 note; Public Law 109-59).

(23) Truck parking facilities eligible for funding under section 1401 of the MAP-21.

(24) Development and implementation of a State asset management plan for the National Highway System in accordance with section 119, including data collection, maintenance, and integration and the costs associated with obtaining, updating, and licensing software and equipment required for risk based asset management and performance based management, and for similar activities related to the development and implementation of a performance based management program for other public roads.

(25) A project that, if located within the boundaries of a port terminal, includes only such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port.

(26) Construction and operational improvements for any minor collector if—

(A) the minor collector, and the project to be carried out with respect to the minor collector, are in the same corridor as, and in proximity to, a Federal-aid highway designated as part of the National Highway System;

(B) the construction or improvements will enhance the level of service on the Federal-aid highway described in subparagraph (A) and improve regional traffic flow; and

(C) the construction or improvements are more cost-effective, as determined by a benefit-cost analysis, than an improvement to the Federal-aid highway described in subparagraph (A).

(c) LOCATION OF PROJECTS.—Surface transportation program projects may not be undertaken on roads functionally classified as local or rural minor collectors unless the roads were on a Federal-aid highway system on January 1, 1991, except—

(1) as provided in subsection (g);

(2) for projects described in paragraphs (2), (4), (6), (7), (11), (20), (25), and (26) of subsection (b); and

(3) as approved by the Secretary.

(d) ALLOCATIONS OF APPORTIONED FUNDS TO AREAS BASED ON POPULATION.—

(1) CALCULATION.—Of the funds apportioned to a State under section 104(b)(2)—

(A) 50 percent for a fiscal year shall be obligated under this section, in proportion to their relative shares of the population of the State—

(i) in urbanized areas of the State with an urbanized area population of over 200,000;

(ii) in areas of the State other than urban areas with a population greater than 5,000; and

(iii) in other areas of the State; and

(B) 50 percent may be obligated in any area of the State.

(2) METROPOLITAN AREAS.—Funds attributed to an urbanized area under paragraph (1)(A)(i) may be obligated in the metropolitan area established under section 134 that encompasses the urbanized area.

(3) CONSULTATION WITH REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS.—For purposes of paragraph (1)(A)(ii), before obligating funding attributed to an area with a population greater than 5,000 and less than 200,000, a State shall consult with the regional transportation planning organizations that represent the area, if any.

(4) DISTRIBUTION AMONG URBANIZED AREAS OF OVER 200,000 POPULATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of funds that a State is required to obligate under paragraph (1)(A)(i) shall be obligated in urbanized areas described in paragraph (1)(A)(i) based on the relative population of the areas.

(B) OTHER FACTORS.—The State may obligate the funds described in subparagraph (A) based on other factors if the State and the relevant metropolitan planning organiza-

<sup>1</sup> So in original. Probably should be followed by a period.

tions jointly apply to the Secretary for the permission to base the obligation on other factors and the Secretary grants the request.

(5) **APPLICABILITY OF PLANNING REQUIREMENTS.**—Programming and expenditure of funds for projects under this section shall be consistent with sections 134 and 135.

(e) **ADMINISTRATION.**—

(1) **SUBMISSION OF PROJECT AGREEMENT.**—For each fiscal year, each State shall submit a project agreement that—

(A) certifies that the State will meet all the requirements of this section; and

(B) notifies the Secretary of the amount of obligations needed to carry out the program under this section.

(2) **REQUEST FOR ADJUSTMENTS OF AMOUNTS.**—Each State shall request from the Secretary such adjustments to the amount of obligations referred to in paragraph (1)(B) as the State determines to be necessary.

(3) **EFFECT OF APPROVAL BY THE SECRETARY.**—Approval by the Secretary of a project agreement under paragraph (1) shall be deemed a contractual obligation of the United States to pay surface transportation program funds made available under this title.

(f) **OBLIGATION AUTHORITY.**—

(1) **IN GENERAL.**—A State that is required to obligate in an urbanized area with an urbanized area population of over 200,000 individuals under subsection (d) funds apportioned to the State under section 104(b)(3)<sup>2</sup> shall make available during the period of fiscal years 2011 through 2014 an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs for use in the area that is equal to the amount obtained by multiplying—

(A) the aggregate amount of funds that the State is required to obligate in the area under subsection (d) during the period; and

(B) the ratio that—

(i) the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs during the period; bears to

(ii) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to an obligation limitation) during the period.

(2) **JOINT RESPONSIBILITY.**—Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with paragraph (1).

(g) **BRIDGES NOT ON FEDERAL-AID HIGHWAYS.**—

(1) **DEFINITION OF OFF-SYSTEM BRIDGE.**—In this subsection, the term “off-system bridge” means a highway bridge located on a public road, other than a bridge on a Federal-aid highway.

(2) **SPECIAL RULE.**—

(A) **SET-ASIDE.**—Of the amounts apportioned to a State for fiscal year 2013 and

each fiscal year thereafter under this section, the State shall obligate for activities described in subsection (b)(2) for off-system bridges an amount that is not less than 15 percent of the amount of funds apportioned to the State for the highway bridge program for fiscal year 2009, except that amounts allocated under subsection (d) shall not be obligated to carry out this subsection.

(B) **REDUCTION OF EXPENDITURES.**—The Secretary, after consultation with State and local officials, may reduce the requirement for expenditures for off-system bridges under subparagraph (A) with respect to the State if the Secretary determines that the State has inadequate needs to justify the expenditure.

(3) **CREDIT FOR BRIDGES NOT ON FEDERAL-AID HIGHWAYS.**—Notwithstanding any other provision of law, with respect to any project not on a Federal-aid highway for the replacement of a bridge or rehabilitation of a bridge that is wholly funded from State and local sources, is eligible for Federal funds under this section, is noncontroversial, is certified by the State to have been carried out in accordance with all standards applicable to such projects under this section, and is determined by the Secretary upon completion to be no longer a deficient bridge—

(A) any amount expended after the date of enactment of this subsection from State and local sources for the project in excess of 20 percent of the cost of construction of the project may be credited to the non-Federal share of the cost of other bridge projects in the State that are eligible for Federal funds under this section; and

(B) that crediting shall be conducted in accordance with procedures established by the Secretary.

(h) **SPECIAL RULE FOR AREAS OF LESS THAN 5,000 POPULATION.**—

(1) **SPECIAL RULE.**—Notwithstanding subsection (c), and except as provided in paragraph (2), up to 15 percent of the amounts required to be obligated by a State under subsection (d)(1)(A)(iii) for each of fiscal years 2013 through 2014 may be obligated on roads functionally classified as minor collectors.

(2) **SUSPENSION.**—The Secretary may suspend the application of paragraph (1) with respect to a State if the Secretary determines that the authority provided under paragraph (1) is being used excessively by the State.

(Added Pub. L. 102-240, title I, §1007(a)(1), Dec. 18, 1991, 105 Stat. 1927; amended Pub. L. 103-429, §3(4), Oct. 31, 1994, 108 Stat. 4377; Pub. L. 104-59, title III, §§315, 316, Nov. 28, 1995, 109 Stat. 586, 587; Pub. L. 105-178, title I, §§1108(a)-(e), 1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 138-140, 193; Pub. L. 109-59, title I, §1113(a)-(b)(2), (c)-(e), title VI, §6006(a)(2), Aug. 10, 2005, 119 Stat. 1171, 1172, 1872; Pub. L. 112-141, div. A, title I, §§1108, 1519(c)(8), July 6, 2012, 126 Stat. 440, 576.)

#### REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (b)(6), is Pub. L. 101-336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Wel-

<sup>2</sup> See References in Text note below.

fare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

Section 1401 of the MAP-21, referred to in subsec. (b)(23), is section 1401 of Pub. L. 112-141, which is set out as a note under section 137 of this title.

Section 104, referred to in subsec. (f)(1), was amended generally by Pub. L. 112-141, div. A, title I, §1105(a), July 6, 2012, 126 Stat. 427.

#### PRIOR PROVISIONS

A prior section 133, Pub. L. 87-866, §5(a), Oct. 23, 1962, 76 Stat. 1146, provided for relocation assistance for persons displaced by Federal-aid highway construction, prior to repeal by Pub. L. 90-495, §37, Aug. 23, 1968, 82 Stat. 836, effective July 1, 1970. See section 501 et seq. of this title.

#### AMENDMENTS

2012—Subsec. (b). Pub. L. 112-141, §1108(a)(1), substituted “section 104(b)(2)” for “section 104(b)(3)” in introductory provisions.

Subsec. (b)(1). Pub. L. 112-141, §1108(a)(2), (4), added par. (1) and struck out former par. (1) which read as follows: “Construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for highways (including Interstate highways) and bridges (including bridges on public roads of all functional classifications), including any such construction or reconstruction necessary to accommodate other transportation modes, and including the seismic retrofit and painting of and application of calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions on bridges and approaches thereto and other elevated structures, mitigation of damage to wildlife, habitat, and ecosystems caused by a transportation project funded under this title.”

Subsec. (b)(2) to (4). Pub. L. 112-141, §1108(a)(4), added pars. (2) to (4). Former pars. (2) to (4) redesignated (5) to (7), respectively.

Subsec. (b)(5). Pub. L. 112-141, §1108(a)(3), redesignated par. (2) as (5). Former par. (5) redesignated (8).

Subsec. (b)(6). Pub. L. 112-141, §1108(a)(5), added par. (6) and struck out former par. (6) which read as follows: “Carpool projects, fringe and corridor parking facilities and programs, bicycle transportation and pedestrian walkways in accordance with section 217, and the modification of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).”

Pub. L. 112-141, §1108(a)(3), redesignated par. (3) as (6). Former par. (6) redesignated (9).

Subsec. (b)(7). Pub. L. 112-141, §1108(a)(6), added par. (7) and struck out former par. (7) which read as follows: “Highway and transit safety infrastructure improvements and programs, hazard eliminations, projects to mitigate hazards caused by wildlife, and railway-highway grade crossings.”

Pub. L. 112-141, §1108(a)(3), redesignated par. (4) as (7). Former par. (7) redesignated (10).

Subsec. (b)(8) to (10). Pub. L. 112-141, §1108(a)(3), redesignated pars. (5) to (7) as (8) to (10), respectively. Former pars. (8) to (10) redesignated (11) to (13), respectively.

Subsec. (b)(11). Pub. L. 112-141, §1108(a)(3), (7), redesignated par. (8) as (11) and substituted “alternatives” for “enhancement activities”. Former par. (11) redesignated (14).

Subsec. (b)(12). Pub. L. 112-141, §1108(a)(3), redesignated par. (9) as (12). Former par. (12) redesignated (15).

Subsec. (b)(13). Pub. L. 112-141, §§1108(a)(3), 1519(c)(8), redesignated par. (10) as (13) and struck out “under section 303.” at end. Former par. (13) redesignated (16).

Subsec. (b)(14). Pub. L. 112-141, §1108(a)(8), added par. (14) and struck out former par. (14) which related to obligating funds for the surface transportation program for projects related to participation in natural habitat and wetlands mitigation efforts.

Pub. L. 112-141, §1108(a)(3), redesignated par. (11) as (14). Former par. (14) redesignated (17).

Subsec. (b)(15) to (18). Pub. L. 112-141, §1108(a)(3), redesignated pars. (12) to (15) as (15) to (18), respectively.

Subsec. (b)(19) to (26). Pub. L. 112-141, §1108(a)(9), added pars. (19) to (26).

Subsec. (c). Pub. L. 112-141, §1108(b), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: “Except as provided in subsection (b)(1), surface transportation program projects (other than those described in subsections (b)(3) and (4)) may not be undertaken on roads functionally classified as local or rural minor collectors, unless such roads are on a Federal-aid highway system on January 1, 1991, and except as approved by the Secretary.”

Subsec. (d). Pub. L. 112-141, §1108(c), added subsec. (d) and struck out former subsec. (d) which related to allocations of apportioned funds.

Subsec. (e). Pub. L. 112-141, §1108(d), added subsec. (e) and struck out former subsec. (e) which related to administration and consisted of pars. (1) to (5).

Subsec. (f)(1). Pub. L. 112-141, §1108(e), substituted “2011 through 2014” for “2004 through 2006 and the period of fiscal years 2007 through 2009” in introductory provisions.

Subsecs. (g), (h). Pub. L. 112-141, §1108(f), added subsecs. (g) and (h).

2005—Subsec. (b)(6). Pub. L. 109-59, §1113(a)(1), inserted “, including advanced truck stop electrification systems” before period at end.

Subsec. (b)(12). Pub. L. 109-59, §1113(a)(2), added par. (12).

Subsec. (b)(14), (15). Pub. L. 109-59, §6006(a)(2), added pars. (14) and (15) and struck out former par. (14) which read as follows: “Environmental restoration and pollution abatement projects (including the retrofit or construction of storm water treatment systems) to address water pollution or environmental degradation caused or contributed to by transportation facilities, which projects shall be carried out when the transportation facilities are undergoing reconstruction, rehabilitation, resurfacing, or restoration; except that the expenditure of funds under this section for any such environmental restoration or pollution abatement project shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration project.”

Subsec. (d)(1). Pub. L. 109-59, §1113(b)(1), struck out heading and text of par. (1). Text read as follows: “10 percent of the funds apportioned to a State under section 104(b)(3) for the surface transportation program for a fiscal year shall only be available for carrying out sections 130 and 152 of this title. Of the funds set aside under the preceding sentence, the State shall reserve in such fiscal year an amount of such funds for carrying out each such section which is not less than the amount of funds apportioned to the State in fiscal year 1991 under such section.”

Subsec. (d)(2). Pub. L. 109-59, §1113(c), substituted “In a fiscal year, the greater of 10 percent of the funds apportioned to a State under section 104(b)(3) for such fiscal year, or the amount set aside under this paragraph with respect to the State for fiscal year 2005,” for “10 percent of the funds apportioned to a State under section 104(b)(3) for a fiscal year”.

Subsec. (d)(3)(A). Pub. L. 109-59, §1113(b)(2)(A)(ii), substituted “90 percent” for “80 percent” in introductory provisions.

Pub. L. 109-59, §1113(b)(2)(A)(i), substituted “subparagraph (C)” for “subparagraphs (C) and (D)” in introductory provisions.

Subsec. (d)(3)(B). Pub. L. 109-59, §1113(b)(2)(B), substituted “to be” for “tobe”.

Subsec. (d)(3)(C) to (E). Pub. L. 109-59, §1113(b)(2)(C), redesignated subpar. (D) as (C), inserted period at end, redesignated par. (E) as (D), and struck out former subpar. (C) which related to special rule in the case of a State in which greater than 80 percent of the population of the State was located in 1 or more metropolitan statistical areas, and greater than 80 percent of the land area of such State was owned by the United States.

Subsec. (f). Pub. L. 109-59, §1113(e), amended directory language of Pub. L. 105-178, §1108(e). See 1998 Amendment note below.

Subsec. (f)(1). Pub. L. 109-59, §1113(d), substituted “2004 through 2006” for “1998 through 2000” and “2007 through 2009” for “2001 through 2003” in introductory provisions.

1998—Subsec. (b)(1). Pub. L. 105-178, §1108(a)(1), inserted “, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions” after “calcium magnesium acetate”.

Subsec. (b)(2). Pub. L. 105-178, §1108(a)(2), substituted “, including vehicles and facilities, whether publicly or privately owned, that are used to provide intercity passenger service by bus” for “and publicly owned intracity or intercity bus terminals and facilities”.

Subsec. (b)(3). Pub. L. 105-178, §1108(a)(3), substituted “bicycle” for “and bicycle” and inserted before period at end “, and the modification of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)”.

Subsec. (b)(4). Pub. L. 105-178, §1108(a)(4), substituted “Highway and transit safety infrastructure” for “Highway and transit safety”.

Subsec. (b)(9). Pub. L. 105-178, §1108(a)(5), substituted “section 108(f)(1)(A) (other than clause (xvi)) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A))” for “section 108(f)(1)(A) (other than clauses (xii) and (xvi)) of the Clean Air Act”.

Subsec. (b)(11). Pub. L. 105-178, §1108(a)(6), in first sentence, inserted “natural habitat and” after “participation in” in two places and also before “wetlands conservation and mitigation plans” and substituted “enhance, and create natural habitats and wetlands” for “enhance and create wetlands” and inserted at end “With respect to participation in a natural habitat or wetland mitigation effort related to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference shall be given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605 (November 28, 1995)) or other applicable Federal law (including regulations).”

Subsec. (b)(13), (14). Pub. L. 105-178, §1108(a)(7), added pars. (13) and (14).

Subsec. (d)(3)(D). Pub. L. 105-178, §1108(b)(1), substituted “Hawaii and Alaska” for “any State which is noncontiguous with the continental United States.”

Subsec. (d)(5)(C). Pub. L. 105-178, §1212(a)(2)(A)(i), substituted “State transportation department” for “State highway department”.

Subsec. (e)(2). Pub. L. 105-178, §1108(c), added par. (2) and struck out heading and text of former par. (2). Text read as follows: “The Governor of each State shall certify before the beginning of each quarter of a fiscal year that the State will meet all the requirements of this section and shall notify the Secretary of the amount of obligations expected to be incurred for surface transportation program projects during such quarter. A State may request adjustment to the obligation amounts later in each of such quarters. Acceptance of the notification and certification shall be deemed a contractual obligation of the United States for the payment of the surface transportation program funds expected to be obligated by the State in such quarter for projects not subject to review by the Secretary under this chapter.”

Subsec. (e)(3)(A). Pub. L. 105-178, §1108(d), struck out at end “Payments shall not exceed the Federal share of costs incurred as of the date the State requests payments.”

Subsec. (e)(3)(B)(i). Pub. L. 105-178, §1108(b)(2)(A), struck out before period at end “if the Secretary certifies for the fiscal year that the State has authorized and uses a process for the selection of transportation enhancement projects that involves representatives of

affected public entities, and private citizens, with expertise related to transportation enhancement activities”.

Subsec. (e)(5)(C). Pub. L. 105-178, §1108(b)(2)(B), added subpar. (C).

Subsec. (f). Pub. L. 105-178, §1108(e), as amended by Pub. L. 109-59, §1113(e), amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows: “A State which is required to obligate in an urbanized area with an urbanized area population of over 200,000 under subsection (d) funds apportioned to it under section 104(b)(3) shall allocate during the 6-fiscal year period 1992 through 1997 an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction for use in such area determined by multiplying—

“(1) the aggregate amount of funds which the State is required to obligate in such area under subsection (d) during such period; by

“(2) the ratio of the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction during such period to the total sums apportioned to the State for Federal-aid highways and highway safety construction (excluding sums not subject to an obligation limitation) during such period.”

1995—Subsec. (d)(5). Pub. L. 104-59, §315, added par. (5).

Subsec. (e)(3). Pub. L. 104-59, §316(1), designated existing provisions as subpar. (A), inserted subpar. (A) heading, realigned margins, substituted “Except as provided in subparagraph (B), the” for “The”, and added subpar. (B).

Subsec. (e)(5). Pub. L. 104-59, §316(2), added par. (5). 1994—Subsec. (b)(2). Pub. L. 103-429 substituted “chapter 53 of title 49” for “the Federal Transit Act”.

#### EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

#### EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-59, title I, §1113(b)(3), Aug. 10, 2005, 119 Stat. 1172, provided that: “Paragraph (1) and paragraph (2)(A)(ii) of this subsection [amending this section] shall take effect October 1, 2005.”

Pub. L. 109-59, title I, §1113(c), Aug. 10, 2005, 119 Stat. 1172, provided that the amendment made by section 1113(c) is effective Oct. 1, 2005.

Pub. L. 109-59, title I, §1113(e), Aug. 10, 2005, 119 Stat. 1172, provided that the amendment made by section 1113(e) is effective June 9, 1998.

#### EFFECTIVE DATE

Section effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102-240, set out as an Effective Date of 1991 Amendment note under section 104 of this title.

#### DIVISION OF STP FUNDS FOR AREAS OF LESS THAN 5,000 POPULATION

Pub. L. 105-178, title I, §1108(f), June 9, 1998, 112 Stat. 141, as amended by Pub. L. 110-244, title I, §113(a), June 6, 2008, 122 Stat. 1606, provided that:

“(1) SPECIAL RULE.—Notwithstanding section 133(c) of title 23, United States Code, and except as provided in paragraph (2), up to 15 percent of the amounts required to be obligated under [former] section 133(d)(3)(B) of such title for each of fiscal years 1998 through 2009 may be obligated on roads functionally classified as minor collectors.

“(2) SUSPENSION.—The Secretary may suspend the application of paragraph (1) if the Secretary determines that paragraph (1) is being used excessively.”

ENCOURAGEMENT OF USE OF YOUTH CONSERVATION OR  
SERVICE CORPS

Pub. L. 105-178, title I, §1108(g), June 9, 1998, 112 Stat. 141, provided that: "The Secretary shall encourage the States to enter into contracts and cooperative agreements with qualified youth conservation or service corps to perform appropriate transportation enhancement activities under chapter 1 of title 23, United States Code."

**§ 134. Metropolitan transportation planning**

(a) POLICY.—It is in the national interest—

(1) 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 between States and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and

(2) to encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transit operators as guided by the planning factors identified in subsection (h) and section 135(d).

(b) DEFINITIONS.—In this section and section 135, the following definitions apply:

(1) METROPOLITAN PLANNING AREA.—The term "metropolitan planning area" means the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under subsection (e).

(2) METROPOLITAN PLANNING ORGANIZATION.—The term "metropolitan planning organization" means the policy board of an organization established as a result of the designation process under subsection (d).

(3) NONMETROPOLITAN AREA.—The term "nonmetropolitan area" means a geographic area outside designated metropolitan planning areas.

(4) NONMETROPOLITAN LOCAL OFFICIAL.—The term "nonmetropolitan local official" means elected and appointed officials of general purpose local government in a nonmetropolitan area with responsibility for transportation.

(5) REGIONAL TRANSPORTATION PLANNING ORGANIZATION.—The term "regional transportation planning organization" means a policy board of an organization established as the result of a designation under section 135(m).

(6) TIP.—The term "TIP" means a transportation improvement program developed by a metropolitan planning organization under subsection (j).

(7) URBANIZED AREA.—The term "urbanized area" means a geographic area with a population of 50,000 or more, as determined by the Bureau of the Census.

(c) GENERAL REQUIREMENTS.—

(1) DEVELOPMENT OF LONG-RANGE PLANS AND TIPS.—To accomplish the objectives in subsection (a), metropolitan planning organiza-

tions designated under subsection (d), in cooperation with the State and public transportation operators, shall develop long-range transportation plans and transportation improvement programs through a performance-driven, outcome-based approach to planning for metropolitan areas of the State.

(2) CONTENTS.—The plans and TIPs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and TIPs 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.

(d) 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 largest incorporated city (based on population) as determined by the Bureau of the Census); or

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

(2) STRUCTURE.—Not later than 2 years after the date of enactment of MAP-21, each metropolitan planning organization that serves an area designated as a transportation management area 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 representation by providers of public transportation; 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 December 18, 1991, of a public agency with multimodal transportation responsibilities—

(A) to develop the plans and TIPs for adoption by a metropolitan planning organization; and

(B) to 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