

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by section 11131(b) of Pub. L. 117-58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117-58, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 2015 AMENDMENT**

Pub. L. 114-94, div. A, title IV, §4015, Dec. 4, 2015, 129 Stat. 1513, provided that: “Notwithstanding any other provision of this Act [div. A of Pub. L. 114-94, see Tables for classification], except for the technical corrections in section 4014 [amending sections 402, 403, and 405 of this title], the amendments made by this Act to sections 164, 402, and 405 of title 23, United States Code, shall be effective on October 1, 2016.”

**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**

Section effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, see section 9016 of Pub. L. 105-206, set out as an Effective Date of 1998 Amendment note under section 101 of this title.

**§ 165. Territorial and Puerto Rico highway program**

(a) **DIVISION OF FUNDS.**—Of funds made available in a fiscal year for the territorial and Puerto Rico highway program—

(1) for the Puerto Rico highway program under subsection (b)—

- (A) \$173,010,000 shall be for fiscal year 2022;
- (B) \$176,960,000 shall be for fiscal year 2023;
- (C) \$180,120,000 shall be for fiscal year 2024;
- (D) \$183,675,000 shall be for fiscal year 2025; and
- (E) \$187,230,000 shall be for fiscal year 2026; and

(2) for the territorial highway program under subsection (c)—

- (A) \$45,990,000 shall be for fiscal year 2022;
- (B) \$47,040,000 shall be for fiscal year 2023;
- (C) \$47,880,000 shall be for fiscal year 2024;
- (D) \$48,825,000 shall be for fiscal year 2025; and
- (E) \$49,770,000 shall be for fiscal year 2026.

(b) **PUERTO RICO HIGHWAY PROGRAM.**—

(1) **IN GENERAL.**—The Secretary shall allocate funds made available to carry out this subsection to the Commonwealth of Puerto Rico to carry out a highway program in the Commonwealth.

(2) **TREATMENT OF FUNDS.**—Amounts made available to carry out this subsection for a fiscal year shall be administered as follows:

(A) **APPORTIONMENT.**—

(i) **IN GENERAL.**—For the purpose of imposing any penalty under this title or title 49, the amounts shall be treated as being apportioned to Puerto Rico under sections 104(b) and 144 (as in effect for fiscal year 1997) for each program funded under those sections in an amount determined by multiplying—

(I) the aggregate of the amounts for the fiscal year; by

(II) the proportion that—

(aa) the amount of funds apportioned to Puerto Rico for each such program for fiscal year 1997; bears to

(bb) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 1997.

(ii) **EXCEPTION.**—Funds identified under clause (i) as having been apportioned for the national highway system, the surface transportation block grant program, and the Interstate maintenance program shall be deemed to have been apportioned 50 percent for the national highway performance program and 50 percent for the surface transportation program for purposes of imposing such penalties.

(B) **PENALTY.**—The amounts treated as being apportioned to Puerto Rico under each section referred to in subparagraph (A) shall be deemed to be required to be apportioned to Puerto Rico under that section for purposes of the imposition of any penalty under this title or title 49.

(C) **ELIGIBLE USES OF FUNDS.**—Of amounts allocated to Puerto Rico for the Puerto Rico Highway Program for a fiscal year—

(i) at least 50 percent shall be available only for purposes eligible under section 119;

(ii) at least 25 percent shall be available only for purposes eligible under section 148; and

(iii) any remaining funds may be obligated for activities eligible under chapter 1 and preventative maintenance on the National Highway System.

(3) **EFFECT ON APPORTIONMENTS.**—Except as otherwise specifically provided, Puerto Rico shall not be eligible to receive funds apportioned to States under this title.

(c) **TERRITORIAL HIGHWAY PROGRAM.**—

(1) **TERRITORY DEFINED.**—In this subsection, the term “territory” means any of the following territories of the United States:

- (A) American Samoa.
- (B) The Commonwealth of the Northern Mariana Islands.
- (C) Guam.
- (D) The United States Virgin Islands.

(2) **PROGRAM.**—

(A) **IN GENERAL.**—Recognizing the mutual benefits that will accrue to the territories and the United States from the improvement of highways in the territories, the Secretary may carry out a program to assist each government of a territory in the construction and improvement of a system of arterial and collector highways, and necessary inter-island connectors, that is—

- (i) designated by the Governor or chief executive officer of each territory; and
- (ii) approved by the Secretary.

(B) **FEDERAL SHARE.**—The Federal share of Federal financial assistance provided to territories under this subsection shall be in accordance with section 120(g).

(3) **TECHNICAL ASSISTANCE.**—

(A) IN GENERAL.—To continue a long-range highway development program, the Secretary may provide technical assistance to the governments of the territories to enable the territories, on a continuing basis—

- (i) to engage in highway planning;
- (ii) to conduct environmental evaluations;
- (iii) to administer right-of-way acquisition and relocation assistance programs; and
- (iv) to design, construct, operate, and maintain a system of arterial and collector highways, including necessary inter-island connectors.

(B) FORM AND TERMS OF ASSISTANCE.—Technical assistance provided under subparagraph (A), and the terms for the sharing of information among territories receiving the technical assistance, shall be included in the agreement required by paragraph (5).

(4) NONAPPLICABILITY OF CERTAIN PROVISIONS.—

(A) IN GENERAL.—Except to the extent that provisions of this chapter are determined by the Secretary to be inconsistent with the needs of the territories and the intent of this subsection, this chapter (other than provisions of this chapter relating to the apportionment and allocation of funds) shall apply to funds made available under this subsection.

(B) APPLICABLE PROVISIONS.—The agreement required by paragraph (5) for each territory shall identify the sections of this chapter that are applicable to that territory and the extent of the applicability of those sections.

(5) AGREEMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (D), none of the funds made available under this subsection shall be available for obligation or expenditure with respect to any territory until the chief executive officer of the territory has entered into an agreement (including an agreement entered into under section 215 as in effect on the day before the enactment of this section) with the Secretary providing that the government of the territory shall—

- (i) implement the program in accordance with applicable provisions of this chapter and paragraph (4);
- (ii) design and construct a system of arterial and collector highways, including necessary inter-island connectors, in accordance with standards that are—
  - (I) appropriate for each territory; and
  - (II) approved by the Secretary;
- (iii) provide for the maintenance of facilities constructed or operated under this subsection in a condition to adequately serve the needs of present and future traffic; and
- (iv) implement standards for traffic operations and uniform traffic control devices that are approved by the Secretary.

(B) TECHNICAL ASSISTANCE.—The agreement required by subparagraph (A) shall—

(i) specify the kind of technical assistance to be provided under the program;

(ii) include appropriate provisions regarding information sharing among the territories; and

(iii) delineate the oversight role and responsibilities of the territories and the Secretary.

(C) REVIEW AND REVISION OF AGREEMENT.—The agreement entered into under subparagraph (A) shall be reevaluated and, as necessary, revised, at least every 2 years.

(D) EXISTING AGREEMENTS.—With respect to an agreement under this subsection or an agreement entered into under section 215 of this title as in effect on the day before the date of enactment of this subsection—

(i) the agreement shall continue in force until replaced by an agreement entered into in accordance with subparagraph (A); and

(ii) amounts made available under this subsection under the existing agreement shall be available for obligation or expenditure so long as the agreement, or the existing agreement entered into under subparagraph (A), is in effect.

(6) ELIGIBLE USES OF FUNDS.—

(A) IN GENERAL.—Funds made available under this subsection may be used only for the following projects and activities carried out in a territory:

- (i) Eligible surface transportation block grant program projects described in section 133(b).
- (ii) Cost-effective, preventive maintenance consistent with section 116(e).
- (iii) Ferry boats, terminal facilities, and approaches, in accordance with subsections (b) and (c) of section 129.
- (iv) Engineering and economic surveys and investigations for the planning, and the financing, of future highway programs.
- (v) Studies of the economy, safety, and convenience of highway use.
- (vi) The regulation and equitable taxation of highway use.
- (vii) Such research and development as are necessary in connection with the planning, design, and maintenance of the highway system.

(B) PROHIBITION ON USE OF FUNDS FOR ROUTINE MAINTENANCE.—None of the funds made available under this subsection shall be obligated or expended for routine maintenance.

(7) LOCATION OF PROJECTS.—Territorial highway program projects (other than those described in paragraphs (1), (2), (3), and (5) of section 133(c) and section 133(b)(13)) may not be undertaken on roads functionally classified as local.

(Added Pub. L. 109-59, title I, §1120(a), Aug. 10, 2005, 119 Stat. 1191; amended Pub. L. 112-141, div. A, title I, §1114(a), July 6, 2012, 126 Stat. 464; Pub. L. 114-94, div. A, title I, §§1109(c)(5), 1115, 1446(a)(11), Dec. 4, 2015, 129 Stat. 1343, 1349, 1438; Pub. L. 117-58, div. A, title I, §11126, Nov. 15, 2021, 135 Stat. 506.)

**Editorial Notes****REFERENCES IN TEXT**

Section 215 as in effect on the day before the enactment of this section and section 215 of this title as in effect on the day before the date of enactment of this subsection, referred to in subsec. (c)(5)(A), (D), probably mean section 215 of this title as in effect on the day before the date of enactment of Pub. L. 112-141, which was approved July 6, 2012, and which amended this section generally and repealed section 215.

**AMENDMENTS**

2021—Subsec. (a). Pub. L. 117-58, § 11126(1), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

“(1) \$158,000,000 shall be for the Puerto Rico highway program under subsection (b); and

“(2) \$42,000,000 shall be for the territorial highway program under subsection (c).”

Subsec. (b)(2)(C)(iii). Pub. L. 117-58, § 11126(2), inserted “and preventative maintenance on the National Highway System” after “chapter 1”.

Subsec. (c)(7). Pub. L. 117-58, § 11126(3), substituted “paragraphs (1), (2), (3), and (5) of section 133(c) and section 133(b)(13)” for “paragraphs (1) through (4) of section 133(c) and section 133(b)(12)”.

2015—Subsec. (a)(1). Pub. L. 114-94, § 1115(1), substituted “\$158,000,000” for “\$150,000,000”.

Subsec. (a)(2). Pub. L. 114-94, § 1115(2), substituted “\$42,000,000” for “\$40,000,000”.

Subsecs. (b)(2)(A)(ii), (c)(6)(A)(i). Pub. L. 114-94, § 1109(c)(5), substituted “surface transportation block grant program” for “surface transportation program”.

Subsec. (c)(7). Pub. L. 114-94, § 1446(a)(11), substituted “paragraphs (1) through (4) of section 133(c) and section 133(b)(12)” for “paragraphs (2), (4), (7), (8), (14), and (19) of section 133(b)”.

2012—Pub. L. 112-141 amended section generally. Prior to amendment, section related to Puerto Rico highway program.

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE OF 2021 AMENDMENT**

Amendment by Pub. L. 117-58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117-58, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 2015 AMENDMENT**

Amendment by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

**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.

**§ 166. HOV facilities****(a) IN GENERAL.—**

(1) **AUTHORITY OF PUBLIC AUTHORITIES.**—A public authority that has jurisdiction over the operation of a HOV facility shall establish the occupancy requirements of vehicles operating on the facility.

(2) **OCCUPANCY REQUIREMENT.**—Except as otherwise provided by this section, no fewer than two occupants per vehicle may be required for use of a HOV facility.

**(b) EXCEPTIONS.—**

(1) **IN GENERAL.**—Notwithstanding the occupancy requirement of subsection (a)(2), the exceptions in paragraphs (2) through (5) shall

apply with respect to a public authority operating a HOV facility.

**(2) MOTORCYCLES AND BICYCLES.—**

(A) **IN GENERAL.**—Subject to subparagraph (B), the public authority shall allow motorcycles and bicycles to use the HOV facility.

**(B) SAFETY EXCEPTION.—**

(i) **IN GENERAL.**—A public authority may restrict use of the HOV facility by motorcycles or bicycles (or both) if the authority certifies to the Secretary that such use would create a safety hazard and the Secretary accepts the certification.

(ii) **ACCEPTANCE OF CERTIFICATION.**—The Secretary may accept a certification under this subparagraph only after the Secretary publishes notice of the certification in the Federal Register and provides an opportunity for public comment.

(3) **PUBLIC TRANSPORTATION VEHICLES.**—The public authority may allow public transportation vehicles to use the HOV facility if the authority—

(A) establishes requirements for clearly identifying the vehicles;

(B) establishes procedures for enforcing the restrictions on the use of the facility by the vehicles; and

(C) provides equal access under the same rates, terms, and conditions for all public transportation vehicles and over-the-road buses serving the public.

(4) **HIGH OCCUPANCY TOLL VEHICLES.**—The public authority may allow vehicles not otherwise exempt pursuant to this subsection to use the HOV facility if the operators of the vehicles pay a toll charged by the authority for use of the facility and the authority—

(A) establishes a program that addresses how motorists can enroll and participate in the toll program;

(B) develops, manages, and maintains a system that will automatically collect the toll; and

(C) establishes policies and procedures to—

(i) manage the demand to use the facility by varying the toll amount that is charged;

(ii) enforce violations of use of the facility; and

(iii) ensure that over-the-road buses serving the public are provided access to the facility under the same rates, terms, and conditions as public transportation buses.

(5) **LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—**

(A) **SPECIAL RULE.**—Before September 30, 2025, if a public authority establishes procedures for enforcing the restrictions on the use of a HOV facility by vehicles described in clauses (i) and (ii), the public authority may allow the use of the HOV facility by—

(i) alternative fuel vehicles; and

(ii) any motor vehicle described in section 30D(d)(1) of the Internal Revenue Code of 1986.

(B) **OTHER LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.**—Before September 30, 2019,