

1     **§104. Apportionment**

2     (b) Division Among Programs of State's Share of Base

3     Apportionment.-The Secretary shall distribute the amount of  
4     the base apportionment apportioned to a State for a fiscal year  
5     under subsection (c) among the national highway performance  
6     program, the surface transportation block grant program, the  
7     highway safety improvement program, the congestion  
8     mitigation and air quality improvement program, the national  
9     highway freight program, the carbon reduction program under  
10    section 175, to carry out subsection (c) of the PROTECT  
11    program under section 176, and to carry out section 134 as  
12    follows:

13           (1) National highway performance program.-For the  
14           national highway performance program,  
15           ~~59.0771195921461~~ ~~53.71~~ percent of the amount  
16           remaining after distributing amounts under ~~paragraphs~~  
17           ~~(4), (5), and (6)~~ (paragraphs (4), (5), (9), and (10)).

18           (2) Surface transportation block grant program.-For the  
19           surface transportation block grant program,  
20           ~~28.7402203421251~~ ~~31.07~~ percent of the amount  
21           remaining after distributing amounts under ~~paragraphs~~  
22           ~~(4), (5), and (6)~~ (paragraphs (4), (5), (9), and (10)).

23           (3) Highway safety improvement program.-For the  
24           highway safety improvement program,  
25           ~~6.70605141316253~~ ~~7.61~~ percent of the amount  
26           remaining after distributing amounts under ~~paragraphs~~  
27           ~~(4), (5), and (6)~~ (paragraphs (4), (5), (9), and (10)).

1 (4) Congestion mitigation and air quality improvement  
2 program.-

3 (A) In general.-For the congestion mitigation and  
4 air quality improvement program, an amount  
5 determined for the State under subparagraphs  
6 (B) and (C).

7 (B) Total amount.-The total amount for the  
8 congestion mitigation and air quality  
9 improvement program for all States shall be-

10 (i) \$2,536,490,803 for fiscal year 2022;

11 (ii) \$2,587,220,620 for fiscal year 2023;

12 (iii) \$2,638,965,032 for fiscal year 2024;

13 (iv) \$2,691,744,332 for fiscal year 2025;

14 and

15 (v) \$2,745,579,213 for fiscal year 2026.

16 (C) State share.-For each fiscal year, the  
17 Secretary shall distribute among the States the  
18 total amount for the congestion mitigation and  
19 air quality improvement program under  
20 subparagraph (B) so that each State receives an  
21 amount equal to the proportion that-

22 (i) the amount apportioned to the State  
23 for the congestion mitigation and air  
24 quality improvement program for fiscal  
25 year 2020; bears to

(ii) the total amount of funds apportioned to all States for that program for fiscal year 2020.

(5) National highway freight program.-

5 (A) In general.—For the national highway freight  
6 program under section 167, the Secretary shall  
7 set aside from the base apportionment  
8 determined for a State under subsection (c) an  
9 amount determined for the State under  
10 subparagraphs (B) and (C).

11 (B) Total amount.-The total amount set aside for  
12 the national highway freight program for all  
13 States shall be-

14 (i) \$1,373,932,519 for fiscal year 2022;

15 (ii) \$1,401,411,169 for fiscal year 2023;

16 (iii) \$1,429,439,392 for fiscal year 2024;

17 (iv) \$1,458,028,180 for fiscal year 2025;

18 and

19 (v) \$

20 (C) State share.-For each fiscal year, the  
21 Secretary shall distribute among the States the  
22 total set-aside amount for the national highway  
23 freight program under subparagraph (B) so that  
24 each State receives the amount equal to the  
25 proportion that-

(i) the total base apportionment determined for the State under subsection (c); bears to

(ii) the total base apportionments for all States under subsection (c).

## 6 (6) Metropolitan planning.-

7 (A) In general.-To carry out section 134, an  
8 amount determined for the State under  
9 subparagraphs (B) and (C).

10 (B) Total amount.—The total amount for  
11 metropolitan planning for all States shall be—

(i) \$438,121,139 for fiscal year 2022;

13 (ii) ~~\$446,883,562 for fiscal year 2023;~~

14 (iii) \$455,821,233 for fiscal year 2024;

15 (iv) \$464,937,657 for fiscal year 2025; and

16 (v) \$474,236,409 for fiscal year 2026.

(B) The total amount for metropolitan planning for all States each fiscal year shall be 2.5 percent of the amount remaining after distributing amounts under paragraph (4), (5), (9), and (10)

21 (C) State share.-For each fiscal year, the  
22 Secretary shall distribute among the States the  
23 total amount to carry out section 134 under  
24 subparagraph (B) so that each State receives an  
25 amount equal to the proportion that-

1 (i) the amount apportioned to the State to  
2 carry out section 134 for fiscal year 2020;  
3 bears to

4 (ii) the total amount of funds apportioned  
5 to all States to carry out section 134 for  
6 fiscal year 2020.

7 (7) Carbon reduction program.-For the carbon reduction  
8 program under section 175, ~~2.56266964565637~~ 2.39  
9 percent of the amount remaining after distributing  
10 amounts under ~~paragraphs (4), (5), and (6)~~ (paragraphs  
11 (4), (5), (9), and (10)).

12 (8) PROTECT formula program.-To carry out subsection  
13 (c) of the PROTECT program under section 176,  
14 ~~2.91393900690991~~ 2.72 percent of the amount  
15 remaining after distributing amounts under ~~paragraphs~~  
16 ~~(4), (5), and (6)~~ (paragraphs (4), (5), (9), and (10)).

17 (9) Strengthening Bridges Formula Program.-

18 (A) In General.- For the strengthening bridges  
19 formula program under section 180, the  
20 Secretary shall set aside from the base  
21 apportionment determined for a State under  
22 subsection (c) an amount determined for the  
23 State under subparagraphs (B) and (C).

24 (B) Total Amount.- The total amount set aside for  
25 the strengthening bridges formula program for all  
26 States shall be \$5,500,000,000 for each fiscal  
27 year between 2027 and 2031.

1 (C) State Share.- Notwithstanding subparagraph  
2 (D), for each fiscal year, after the setting aside  
3 funds as required by section 180(e), the  
4 Secretary shall distribute among the States the  
5 remaining amount for the strengthening bridges  
6 formula program under subparagraph (B) so that  
7 each State receives the amount equal to the  
8 proportion that –

9 (i) the total cost of replacing or  
10 rehabilitating all bridges classified in poor  
11 condition in such State; bears to

12 (ii) the total cost of replacing or  
13 rehabilitating all bridges classified in poor  
14 condition in all States.

15 (D) Determination of costs.- For purposes of  
16 subparagraph (C), the Secretary shall determine  
17 replacement and rehabilitation costs based on  
18 the average unit costs of bridges from 2021  
19 through 2024, as submitted by States to the  
20 Federal Highway Administration as required by  
21 section 144(b)(5).

22 (E) Minimum Amount.- The minimum amount  
23 that the Secretary apportions to a State in a  
24 fiscal year under this program shall be  
25 \$45,000,000.

26 (10) Regional Transportation Planning.-

(A) In General. - To carry out section 135(n) of this title, an amount determined for the State under subparagraphs (C) of this subsection.

(B) Total Amount.- The total amount to carry out section 135(n) of this title for all States shall be \$150,000,000 for each fiscal year between 2027 and 2031.

(C) Distribution Among The States.- For each fiscal year, the Secretary shall distribute the amounts authorized to carry out section 135(n) of this title among the States in the same proportion as the amount distributed to the State share under subsection (b) of this section.

(D) Administration.- Up to 5 percent of the amounts provided to each State may be used by the State to administer this program.

## 17 §133. Surface transportation block grant program

18 (d) Allocations of Apportioned Funds to Areas Based on  
19 Population.-

20 (1) Calculation.-Of the funds apportioned to a State  
21 under section 104(b)(2) (after the set aside of funds  
22 under subsection (h))-

23 (A) 55 percent for each of fiscal years 2022  
24 through 2026 shall be obligated under this  
25 section, in proportion to their relative shares of  
26 the population of the State-

- 1 (i) in urbanized areas of the State with an
- 2 urbanized area population of over
- 3 200,000;

4 (ii) in urbanized areas of the State with an  
5 urbanized area population of not less  
6 than 50,000 and not more than 200,000;

7 (iii) in urban areas of the State with a  
8 population not less than 5,000 and not  
9 more than 49,999; and

10 (iv) in other areas of the State with a  
11 population less than 5,000; and

12 (B) the remainder may be obligated in any area of  
13 the State.

14 (2) Metropolitan areas.-Funds attributed to an  
15 urbanized area under paragraph (1)(A)(i) may be  
16 obligated in the metropolitan area established under  
17 section 134 that encompasses the urbanized area.

### 18 (3) Local consultation.-

19 (A) Consultation with metropolitan planning  
20 organizations.-For purposes of clause (ii) of  
21 paragraph (1)(A), a State shall-

22 (i) establish a process to consult with all  
23 metropolitan planning organizations in  
24 the State that represent an urbanized area  
25 described in that clause; and

1 (ii) describe how funds allocated for areas  
2 described in that clause will be allocated  
3 equitably among the applicable  
4 urbanized areas during the period of fiscal  
5 years 2022 through 2026.

6 (B) Consultation with regional transportation  
7 planning organizations.-For purposes of clauses  
8 (iii) and (iv) of paragraph (1)(A), before obligating  
9 funding attributed to an area with a population  
10 less than 50,000, a State shall consult with the  
11 regional transportation planning organizations  
12 that represent the area, if any.

13 (C) Consultation with Local Governments.- For  
14 purposes of clauses (iii) and (iv) of paragraph  
15 (1)(A), before obligating funding attributed to an  
16 area with a population of less than 50,000 that is  
17 not represented by a regional transportation  
18 planning organization, a State shall consult with  
19 local governments in that area and may partner  
20 with nonpartisan, statewide organizations  
21 representing local governments and their  
22 elected leaders in order to facilitate such  
23 consultation.

24 (4) Distribution among urbanized areas of over 200,000  
25 population.-

26 (A) In general.-Except as provided in  
27 subparagraph (B), the amount of funds that a  
28 State is required to obligate under paragraph

1 (1)(A)(i) shall be obligated in urbanized areas  
2 described in paragraph (1)(A)(i) based on the  
3 relative population of the areas.

4 (B) Other factors.-The State may obligate the  
5 funds described in subparagraph (A) based on  
6 other factors if the State and the relevant  
7 metropolitan planning organizations jointly apply  
8 to the Secretary for the permission to base the  
9 obligation on other factors and the Secretary  
10 grants the request.

11 (5) Applicability of planning requirements.-Programming  
12 and expenditure of funds for projects under this section  
13 shall be consistent with sections 134 and 135.

14 **\$180. Strengthening bridges formula program**

15 (a) Establishment.- The Secretary shall establish a program  
16 in accordance with this section to provide funding for  
17 bridge projects.

18 (b) Eligible Uses.- Funds apportioned to a State under this  
19 section may be obligated for the construction,  
20 replacement, rehabilitation, preservation, and  
21 protection of highway bridges on public roads.

22 (c) Suballocation of Apportioned Funds.-

23 (1) Calculation.- Of the funds apportioned to a State  
24 under section 104(b)(9) (after the set aside of  
25 funds under subsection (e)), the State shall  
26 obligate-

(A) 25 percent in the following areas in proportion to their relative shares of the population of the State-

- (i) in urbanized areas of the State with an urbanized population of over 200,000;
- (ii) in urbanized areas of the State with an urbanized population of not less than 50,000 and not more than 200,000;
- (iii) in urban areas of the State with a population of not less than 5,000 and not more than 49,999; and
- (iv) in other areas of the State with a population less than 5,000; and

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

(2) Treatment of Funds.- Funds made available to carry out this section shall be administered as if apportioned under Section 104(e) and Section 104(i) of Title 23, United States Code (as amended).

(3) Project Selection.- A State shall only obligate funding under this section for-

(A) In areas of more than 50,000, projects  
that have been included on the

Transportation Improvement Program for  
the metropolitan planning organization  
representing that area;

(B) in areas under 50,000 that are covered by a regional transportation planning organization, projects that are identified in cooperation with said regional transportation planning organization; and

(C) in areas under 50,000 that are not covered by a regional transportation planning organization, projects that are selected in consultation with local governments in that area.

(4) In order to facilitate better consultation with local governments to identify eligible projects, the State may work with nonpartisan, statewide organizations representing units of local government and their elected officials

(d) Applicability of Planning Requirements.- Programming and expenditure of funds for projects under this section shall be consistent with sections 134 and 135 of title 23, United States Code.

(e) Set Asides.- The Secretary shall set aside-

- (1) 3 percent of the funds available for this program in each fiscal year to carry out section 202(d) of title 23, United States Code; and
- (2) Up to one-half of 1 percent of the amounts made available for this program for the administration

1 and operations of the Federal Highway  
2 Administration.

3 (f) Cost Share.-

4 (1) In General.- For funds made available from this  
5 program, the Federal share shall be determined  
6 in accordance with section 120 of title 23, United  
7 States Code.

8 (2) Local, Off-System Bridge.- For funding for a  
9 project used on an off-system bridge that is  
10 owned by a local government or Tribe, the  
11 Federal share shall be 100 percent.

12 **§148. Highway safety improvement program**

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

14 (1) High risk rural road.-The term "high risk rural road"  
15 means any roadway functionally classified as a rural  
16 major or minor collector or a rural local road with  
17 significant safety risks, as defined by a State in  
18 accordance with an updated State strategic highway  
19 safety plan.

20 (2) Highway basemap.-The term "highway basemap"  
21 means a representation of all public roads that can be  
22 used to geolocate attribute data on a roadway.

23 (3) Highway safety improvement program.-The term  
24 "highway safety improvement program" means projects,  
25 activities, plans, and reports carried out under this  
26 section.

27 (4) Highway safety improvement project.-

1 (A) In general.-The term "highway safety  
2 improvement project" means strategies,  
3 activities, and projects on a public road that are  
4 consistent with a State strategic highway safety  
5 plan and-

6 (i) correct or improve a hazardous road  
7 location or feature; or  
8 (ii) address a highway safety problem.

9 (B) Inclusions.-The term "highway safety  
10 improvement project" only includes a project for  
11 1 or more of the following:

12 (i) An intersection safety improvement  
13 that provides for the safety of all road  
14 users, as appropriate, including a  
15 multimodal roundabout.

16 (ii) Pavement and shoulder widening  
17 (including addition of a passing lane to  
18 remedy an unsafe condition).

19 (iii) Installation of rumble strips or another  
20 warning device, if the rumble strips or  
21 other warning devices do not adversely  
22 affect the safety or mobility of bicyclists  
23 and pedestrians, including persons with  
24 disabilities.

25 (iv) Installation of a skid-resistant surface  
26 at an intersection or other location with a  
27 high frequency of crashes.

- (v) An improvement for pedestrian or bicyclist safety or safety of persons with disabilities.
- (vi) Construction and improvement of a railway-highway grade crossing safety feature, including installation of protective devices or a grade separation project.
- (vii) The conduct of a model traffic enforcement activity at a railway-highway crossing.
- (viii) Construction or installation of features, measures, and road designs to calm traffic and reduce vehicle speeds.
- (ix) Elimination of a roadside hazard.
- (x) Installation, replacement, and other improvement of highway signage and pavement markings, or a project to maintain minimum levels of retroreflectivity, that addresses a highway safety problem consistent with a State strategic highway safety plan.
- (xi) Installation of a priority control system for emergency vehicles at signalized intersections.

- (xii) Installation of a traffic control or other warning device at a location with high crash potential.
- (xiii) Transportation safety planning.
- (xiv) Collection, analysis, and improvement of safety data.
- (xv) Planning integrated interoperable emergency communications equipment, operational activities, or traffic enforcement activities (including police assistance) relating to work zone safety.
- (xvi) Installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of road users and workers), and crash attenuators.
- (xvii) The addition or retrofitting of structures or other measures to eliminate or reduce crashes involving vehicles and wildlife.
- (xviii) Installation of yellow-green signs and signals at pedestrian and bicycle crossings and in school zones.
- (xix) Construction and operational improvements on high risk rural roads.

1 (xx) Geometric improvements to a road  
2 for safety purposes that improve safety.

3 (xxi) A road safety audit.

4 (xxii) Roadway safety infrastructure  
5 improvements consistent with the  
6 recommendations included in the  
7 publication of the Federal Highway  
8 Administration entitled "Highway Design  
9 Handbook for Older Drivers and  
10 Pedestrians" (FHWA-RD-01-103), dated  
11 May 2001 or as subsequently revised and  
12 updated.

13 (xxiii) Truck parking facilities eligible for  
14 funding under section 1401 of the MAP–  
15 21.

16 (xxiv) Systemic safety improvements.

17 (xxv) Installation of vehicle-to–  
18 infrastructure communication  
19 equipment.

20 (xxvi) Installation or upgrades of traffic  
21 control devices for pedestrians and  
22 bicyclists, including pedestrian hybrid  
23 beacons and the addition of bicycle  
24 movement phases to traffic signals.

25 (xxvii) Roadway improvements that  
26 provide separation between pedestrians  
27 and motor vehicles or between bicyclists

1 and motor vehicles, including medians,  
2 pedestrian crossing islands, protected  
3 bike lanes, and protected intersection  
4 features.

5 (xxviii) A pedestrian security feature  
6 designed to slow or stop a motor vehicle.

7 (xxix) A physical infrastructure safety  
8 project not described in clauses (i)  
9 through (xxviii).

10 (xxx) Any project that was eligible for  
11 funding under section 24112 of the  
12 Infrastructure Investment and Jobs Act  
13 (23 U.S.C 402 note).

14 (d) Allocations of Apportioned Funds Based on Population.-

15 (1) Calculation.- Of the funds apportioned to a State  
16 under section 104(b)(3)-

17 (A) 25 percent shall be obligated under this  
18 section, in proportion to their relative shares of  
19 the population of the State-

20 (i) in urbanized areas of the State with an  
21 urbanized area population of over  
22 200,000;

23 (ii) in urbanized areas of the State with an  
24 urbanized area population of not less  
25 than 50,000 and not more than 200,000;

(iii) in urban areas of the State with a population not less than 5,000 and not more than 49,999; and

(iv) in other areas of the State with a population less than 5,000; and

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

(2) Project Selection.- A State shall only obligate funding under this section for-

(A) in areas of more than 50,000, projects that have been included on the Transportation Improvement Program for the metropolitan planning organization representing that area;

(B) in areas under 50,000 that are covered by a regional transportation planning organization, projects that are identified in cooperation with said regional transportation planning organization; and

(C) in areas under 50,000 that are not covered by a regional transportation planning organization, projects that are selected in consultation with local governments in that area.

(3) Consultation.- In order to facilitate better consultation with local governments to identify eligible projects, the State may work with nonpartisan, statewide organizations representing units of local government and their elected officials.

#### (4) Applicability of Planning Requirements.-

Programming and expenditure of funds for projects under this section shall be consistent with sections 134 and 135 of title 23, United States Code.

## 5 (e d) Updates to Strategic Highway Safety Plans.-

### (1) Establishment of requirements.-

(A) In general.—Not later than 1 year after the date of enactment of the MAP–21, the Secretary shall establish requirements for regularly recurring State updates of strategic highway safety plans.

(B) Contents of updated strategic highway safety plans.-In establishing requirements under this subsection, the Secretary shall ensure that States take into consideration, with respect to updated strategic highway safety plans-

(i) the findings of road safety audits;

(ii) the locations of fatalities and serious injuries;

(iii) the locations that do not have an empirical history of fatalities and serious injuries, but possess risk factors for potential crashes;

(iv) rural roads, including all public roads, commensurate with fatality data;

(v) motor vehicle crashes that include fatalities or serious injuries to pedestrians and bicyclists;

(vi) the cost-effectiveness of improvements;

(vii) improvements to rail-highway grade crossings; and

(viii) safety on all public roads, including non-State-owned public roads and roads on tribal land.

11 (2) Approval of updated strategic highway safety plans.-

12 (A) In general.-Each State shall-

13 (i) update the strategic highway safety  
14 plans of the State in accordance with the  
15 requirements established by the  
16 Secretary under this subsection; and

17 (ii) submit the updated plans to the  
18 Secretary, along with a detailed  
19 description of the process used to update  
20 the plan.

21 (B) Requirements for approval.-The Secretary  
22 shall not approve the process for an updated  
23 strategic highway safety plan unless-

24 (i) the updated strategic highway safety  
25 plan is consistent with the requirements

1 of this subsection and subsection (a)(13);  
2 and

3 (ii) the process used is consistent with the  
4 requirements of this subsection.

5 (3) Penalty for failure to have an approved updated  
6 strategic highway safety plan.-If a State does not have  
7 an updated strategic highway safety plan with a process  
8 approved by the Secretary by August 1 of the fiscal year  
9 beginning after the date of establishment of the  
10 requirements under paragraph (1), the State shall not be  
11 eligible to receive any additional limitation pursuant to  
12 the redistribution of the limitation on obligations for  
13 Federal-aid highway and highway safety construction  
14 programs that occurs after August 1 for each  
15 succeeding fiscal year until the fiscal year during which  
16 the plan is approved.

## 17 (f e) Eligible Projects.-

18 (1) In general.-Funds apportioned to the State under  
19 section 104(b)(3) may be obligated to carry out-

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

23 (B) as provided in subsection (h); or

24 (C) any project to maintain minimum levels of  
25 retroreflectivity with respect to a public road,  
26 without regard to whether the project is included

### 3 (2) Use of other funding for safety.-

4 (A) Effect of section.-Nothing in this section  
5 prohibits the use of funds made available under  
6 other provisions of this title for highway safety  
7 improvement projects.

8 (B) Use of other funds.-States are encouraged to  
9 address the full scope of the safety needs and  
10 opportunities of the States by using funds made  
11 available under other provisions of this title  
12 (except a provision that specifically prohibits  
13 that use).

### 14 (3) Flexible funding for specified safety projects.-

15 (A) In general.—To advance the implementation of  
16 a State strategic highway safety plan, a State  
17 may use not more than 10 percent of the  
18 amounts apportioned to the State under section  
19 104(b)(3) for a fiscal year to carry out specified  
20 safety projects.

(B) Rule of construction.-Nothing in this paragraph requires a State to revise any State process, plan, or program in effect on the date of enactment of this paragraph.

25 (C) Effect of paragraph.-

1 (i) Requirements.-A project carried out  
2 under this paragraph shall be subject to  
3 all requirements under this section that  
4 apply to a highway safety improvement  
5 project.

6 (ii) Other apportioned programs.-Nothing  
7 in this paragraph prohibits the use of  
8 funds made available under other  
9 provisions of this title for a specified  
10 safety project that is a noninfrastructure  
11 project.

## 12 (g f) Data Improvement.-

13 (1) Definition of data improvement activities.-In this  
14 subsection, the following definitions apply:

15 (A) In general.-The term "data improvement  
16 activities" means a project or activity to further  
17 the capacity of a State to make more informed  
18 and effective safety infrastructure investment  
19 decisions.

20 (B) Inclusions.-The term "data improvement  
21 activities" includes a project or activity-

22 (i) to create, update, or enhance a  
23 highway basemap of all public roads in a  
24 State;

25 (ii) to collect safety data, including data  
26 identified as part of the model inventory  
27 for roadway elements, for creation of or

1 use on a highway basemap of all public  
2 roads in a State;

3 (iii) to store and maintain safety data in an  
4 electronic manner;

5 (iv) to develop analytical processes for  
6 safety data elements;

7 (v) to acquire and implement roadway  
8 safety analysis tools; and

9 (vi) to support the collection,  
10 maintenance, and sharing of safety data  
11 on all public roads and related systems  
12 associated with the analytical usage of  
13 that data.

14 (2) Model inventory of roadway elements.-The Secretary  
15 shall-

16 (A) establish a subset of the model inventory of  
17 roadway elements that are useful for the  
18 inventory of roadway safety; and

19 (B) ensure that States adopt and use the subset  
20 to improve data collection.

## 21 (h) Special Rules.-

(1) High-risk rural road safety.-If the fatality rate on rural roads in a State increases over the most recent 2-year period for which data are available, that State shall be required to obligate in the next fiscal year for projects on high risk rural roads an amount equal to at least 200

1 percent of the amount of funds the State received for  
2 fiscal year 2009 for high risk rural roads under  
3 subsection (g(f)) of this section, as in effect on the day  
4 before the date of enactment of the MAP-21.

5 (2) Older drivers.-If traffic fatalities and serious injuries  
6 per capita for drivers and pedestrians over the age of 65  
7 in a State increases during the most recent 2-year  
8 period for which data are available, that State shall be  
9 required to include, in the subsequent Strategic  
10 Highway Safety Plan of the State, strategies to address  
11 the increases in those rates, taking into account the  
12 recommendations included in the publication of the  
13 Federal Highway Administration entitled "Highway  
14 Design Handbook for Older Drivers and Pedestrians"  
15 (FHWA-RD-01-103), and dated May 2001, or as  
16 subsequently revised and updated.

17 (3) Vulnerable road user safety.-If the total annual  
18 fatalities of vulnerable road users in a State represents  
19 not less than 15 percent of the total annual crash  
20 fatalities in the State, that State shall be required to  
21 obligate not less than 15 percent of the amounts  
22 apportioned to the State under section 104(b)(3) for the  
23 following fiscal year for highway safety improvement  
24 projects to address the safety of vulnerable road users.

25 (i(h)) Reports.-

26 (1) In general.-A State shall submit to the Secretary a  
27 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 have contributed to reducing-

(i) the number and rate of fatalities on all public roads with, to the maximum extent practicable, a breakdown by functional classification and ownership in the State;

(ii) the number and rate of serious injuries on all public roads with, to the maximum extent practicable, a breakdown by functional classification and ownership in the State; and

(iii) the occurrences of fatalities and serious injuries at railway-highway crossings.

(2) Contents; schedule.—The Secretary shall establish the content and schedule for the submission of the report under paragraph (1).

(3) Transparency.-The Secretary shall make strategic highway safety plans submitted under subsection (d) and reports submitted under this subsection available to the public through-

1 (A) the website of the Department; and

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

4 (4) Discovery and admission into evidence of certain  
5 reports, surveys, and information.-Notwithstanding any  
6 other provision of law, reports, surveys, schedules, lists,  
7 or data compiled or collected for any purpose relating  
8 to this section, shall not be subject to discovery or  
9 admitted into evidence in a Federal or State court  
10 proceeding or considered for other purposes in any  
11 action for damages arising from any occurrence at a  
12 location identified or addressed in the reports, surveys,  
13 schedules, lists, or other data.

14 (j) State Performance Targets.-If the Secretary determines that  
15 a State has not met or made significant progress toward  
16 meeting the safety performance targets of the State  
17 established under section 150(d), the State shall-

18 (1) use obligation authority equal to the apportionment  
19 of the State for the prior year under section 104(b)(3)  
20 only for highway safety improvement projects under this  
21 section until the Secretary determines that the State  
22 has met or made significant progress toward meeting  
23 the safety performance targets of the State; and

(2) submit annually to the Secretary, until the Secretary determines that the State has met or made significant progress toward meeting the safety performance targets of the State, an implementation plan that-

- 1 (A) identifies roadway features that constitute a
- 2 hazard to road users;
- 3 (B) identifies highway safety improvement
- 4 projects on the basis of crash experience, crash
- 5 potential, or other data-supported means;
- 6 (C) describes how highway safety improvement
- 7 program funds will be allocated, including
- 8 projects, activities, and strategies to be
- 9 implemented;
- 10 (D) describes how the proposed projects,
- 11 activities, and strategies funded under the State
- 12 highway safety improvement program will allow
- 13 the State to make progress toward achieving the
- 14 safety performance targets of the State; and
- 15 (E) describes the actions the State will undertake
- 16 to meet the safety performance targets of the
- 17 State.

18 (k)j) Federal Share of Highway Safety Improvement Projects.-  
19 Except as provided in sections 120 and 130, the Federal share  
20 of the cost of a highway safety improvement project carried out  
21 with funds apportioned to a State under section 104(b)(3) shall  
22 be 90 percent.

23 (l~~k~~) Data Collection on Unpaved Public Roads.-

24 (1) In general.-A State may elect not to collect  
25 fundamental data elements for the model inventory of  
26 roadway elements on public roads that are gravel roads  
27 or otherwise unpaved if-

1 (A) the State does not use funds provided to  
2 carry out this section for a project on any such  
3 roads until the State completes a collection of  
4 the required model inventory of roadway  
5 elements for the applicable road segment; and

6 (B) the State demonstrates that the State  
7 consulted with affected Indian tribes before  
8 ceasing to collect data with respect to such  
9 roads that are included in the National Tribal  
10 Transportation Facility Inventory under section  
11 202(b)(1) of this title.

12 (2) Rule of construction.-Nothing in this subsection may  
13 be construed to allow a State to cease data collection  
14 related to serious injuries or fatalities.

## 15 (m t) Vulnerable Road User Safety Assessment.-

16 (1) In general.—Not later than 2 years after the date of  
17 enactment of this subsection, each State shall  
18 complete a vulnerable road user safety assessment.

19 (2) Contents.-A vulnerable road user safety assessment  
20 under paragraph (1) shall include-

21 (A) a quantitative analysis of vulnerable road  
22 user fatalities and serious injuries that-

23 (i) includes data such as location,  
24 roadway functional classification, design  
25 speed, speed limit, and time of day;

1 (ii) considers the demographics of the  
2 locations of fatalities and serious injuries,  
3 including race, ethnicity, income, and  
4 age; and

5 (iii) based on the data, identifies areas as  
6 "high-risk" to vulnerable road users; and

7 (B) a program of projects or strategies to reduce  
8 safety risks to vulnerable road users in areas  
9 identified as high-risk under subparagraph

10 (A)(iii).

11 (3) Use of data.-In carrying out a vulnerable road user  
12 safety assessment under paragraph (1), a State shall  
13 use data from the most recent 5-year period for which  
14 data is available.

15 (4) Requirements.—In carrying out a vulnerable road user  
16 safety assessment under paragraph (1), a State shall—

17 (A) take into consideration a safe system  
18 approach; and

19 (B) consult with local governments, metropolitan  
20 planning organizations, and regional  
21 transportation planning organizations that  
22 represent a high-risk area identified under  
23 paragraph (2)(A)(iii).

(5) Update.-A State shall update the vulnerable road user safety assessment of the State in accordance with the updates required to the State strategic highway safety plan under subsection (d).

1 (6) Requirement for transportation system access.-The  
2 program of projects developed under paragraph (2)(B)  
3 may not degrade transportation system access for  
4 vulnerable road users.

## 5 (7) Guidance.-

6 (A) In general.--Not later than 1 year after the date  
7 of enactment of this subsection, the Secretary  
8 shall develop guidance for States to carry out  
9 this subsection.

10 (B) Consultation.-In developing the guidance  
11 under this paragraph, the Secretary shall consult  
12 with the States and relevant safety stakeholders.

## 13 §126. Transferability of Federal-aid highway funds

14 (a) In General.-Notwithstanding any other provision of law,  
15 subject to subsection (b) and (c) subject to subsection (b), a  
16 State may transfer from an apportionment under section  
17 104(b) not to exceed 50 percent of the amount apportioned for  
18 the fiscal year to any other apportionment of the State under  
19 that section.

## 20 (b) Application to Certain Set-asides.-

(1) In general.-Funds that are subject to sections 104(d), 133(d)(1)(A), 135(n), 148(d)(1)(A), 175(e)(1)(A), and 180(c)(1)(A) ~~104(d) and 133(d)(1)(A)~~ shall not be transferred under this section.

(2) Funds transferred by states.-Funds transferred by a State under this section of the funding set aside for a State under section 133(h) for a fiscal year-

(A) may only come from the portion of those funds that are available for obligation in any area of the State under section 133(h); and

(B) may only be transferred if the Secretary certifies that the State-

9 (i) held a competition in compliance with  
10 the guidance issued to carry out section  
11 133(h) and provided sufficient time for  
12 applicants to apply;

13 (ii) offered to each eligible entity, and  
14 provided on request of an eligible entity,  
15 technical assistance; and

16 (iii) demonstrates that there were not  
17 sufficiently suitable applications from  
18 eligible entities to use the funds to be  
19 transferred.

20 (c) Safety Funding.- Before transferring any funding  
21 apportioned under section 104(b)(3), a State shall make those  
22 funds available to local governments and regional planning  
23 organizations through a competitive process.

24 (1) In General.- Projects funded through this process  
25 must meet the requirements for funding under Section  
26 104(b)(3) as outlined in section 148 of title 23, United  
27 States Code.

## 6 §120. Federal share payable

### 7 (c) Increased Federal Share.-

(1) Certain safety projects.-The Federal share payable on account of any project for traffic control signalization, maintaining minimum levels of retroreflectivity of highway signs or pavement markings, traffic circles (also known as "roundabouts"), safety rest areas, pavement marking, shoulder and centerline rumble strips and stripes, commuter carpooling and vanpooling, rail-highway crossing closure, or installation of traffic signs, traffic lights, guardrails, impact attenuators, concrete barrier endtreatments, breakaway utility poles, vehicle-to-infrastructure communication equipment, or priority control systems for emergency vehicles or transit vehicles at signalized intersections may amount to 100 percent of the cost of construction of such projects; except that not more than 10 percent of all sums apportioned for all the Federal-aid programs for any fiscal year in accordance with section 104 of this title shall be used under this subsection. In this subsection, the term "safety rest area" means an area where motor vehicle operators can park their vehicles and rest, where food, fuel, and

1 lodging services are not available, and that is located on  
2 a segment of highway with respect to which the  
3 Secretary determines there is a shortage of public and  
4 private areas at which motor vehicle operators can park  
5 their vehicles and rest.

6 (2) CMAQ projects.-The Federal share payable on  
7 account of a project or program carried out under  
8 section 149 with funds obligated in fiscal year 2008 or  
9 2009, or both, shall be not less than 80 percent and, at  
10 the discretion of the State, may be up to 100 percent of  
11 the cost thereof.

12 (3) Innovative project delivery.-

13 (A) In general.-Except as provided in  
14 subparagraph (C), the Federal share payable on  
15 account of a project, program, or activity carried  
16 out with funds apportioned under paragraph (1),  
17 (2), (5)(D), or (6) of section 104(b) may, at the  
18 discretion of the State, be up to 100 percent for  
19 any such project, program, or activity that the  
20 Secretary determines-

21 (i) contains innovative project delivery  
22 methods that improve work zone safety  
23 for motorists or workers and the quality of  
24 the facility;

25 (ii) contains innovative technologies,  
26 engineering or design approaches,  
27 manufacturing processes, financing, or  
28 contracting or project delivery methods

1 that improve the quality of, extend the  
2 service life of, or decrease the long-term  
3 costs of maintaining highways and  
4 bridges;

5 (iii) accelerates project delivery while  
6 complying with other applicable Federal  
7 laws (including regulations) and not  
8 causing any significant adverse  
9 environmental impact; or

10 (iv) reduces congestion related to highway  
11 construction.

12 (B) Examples.-Projects, programs, and activities  
13 described in subparagraph (A) may include the  
14 use of-

15 (i) prefabricated bridge elements and  
16 systems and other technologies to reduce  
17 bridge construction time;

18 (ii) innovative construction equipment,  
19 materials, or techniques, including the  
20 use of in-place recycling technology and  
21 digital 3-dimensional modeling  
22 technologies:

23 (iii) innovative contracting methods,  
24 including the design-build and the  
25 construction manager-general contractor  
26 contracting methods and alternative  
27 bidding;

1 (iv) intelligent compaction equipment;

2 (v) innovative pavement materials that

3 have a demonstrated life cycle of 75 or

4 more years, are manufactured with

5 reduced greenhouse gas emissions, and

6 reduce construction-related congestion

7 by rapidly curing;

8 (vi) contractual provisions that provide

9 safety contingency funds to incorporate

10 safety enhancements to work zones prior

11 to or during roadway construction

12 activities; or

13 (vii) contractual provisions that offer a

14 contractor an incentive payment for early

15 completion of the project, program, or

16 activity, subject to the condition that the

17 incentives are accounted for in the

18 financial plan of the project, when

19 applicable.

20 (C) Limitations.-

21 (i) In general.-In each fiscal year, a State

22 may use the authority under

23 subparagraph (A) for up to 10 percent of

24 the combined apportionments of the

25 State under paragraphs (1), (2), (5)(D), and

26 (6) of section 104(b). (ii) Federal share

27 increase.-The Federal share payable on

28 account of a project, program, or activity

4 (4) Pooled funding.-Notwithstanding any other provision  
5 of law, the Secretary may waive the non-Federal share  
6 of the cost of a project or activity under section  
7 502(b)(6) that is carried out with amounts apportioned  
8 under section 104(b)(2) after considering appropriate  
9 factors, including whether-

10 (A) decreasing or eliminating the non-Federal  
11 share would best serve the interests of the  
12 Federal-aid highway program; and

13 (B) the project or activity addresses national or  
14 regional high priority research, development,  
15 and technology transfer problems in a manner  
16 that would benefit multiple States or  
17 metropolitan planning organizations.

(5) Metropolitan Planning Funds.- The Federal share payable for activities authorized by section 134 of title 23 and apportioned under section 104(b)(6) of title 23 shall be 100 percent.

## 22 §134. Metropolitan transportation planning

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

1        ~~(p) Funding.- Funds apportioned under section 104(b)(6)~~  
2        ~~or section 5305(g) of title 49 shall be available to carry out this~~  
3        ~~section.~~

4        (p) Funding.-

5                (1) In General.- Funds apportioned under section  
6                104(b)(6) or section 5305(g) of title 49 shall be available  
7                to carry out this section.

8                (2) Direct Recipient Status.- Not less than 180 after the  
9                passage of this Act, the Secretary shall establish a  
10               process whereby a metropolitan planning agency may  
11               qualify to become direct recipient of Federal Funding,  
12               such process shall –

13                        (A) be restricted to determining the technical and  
14                       financial capabilities for an metropolitan  
15                       planning organization to receive and be able to  
16                       appropriately manage Federal funding and  
17                       funding requirements; and

18                        (B) occur concurrently to the recertification  
19                       process through which metropolitan planning  
20                       organizations have their abilities reconfirmed  
21                       under this section.

22                        (3) Suballocation of Federal Planning Funds.- When the  
23                       Secretary annually apportions funds to States under  
24                       section 104(b)(6), the Secretary shall directly sub-  
25                       allocate obligation authority and all associated  
26                       responsibilities to metropolitan planning organizations  
27                       that have become direct recipients for funding allocated

1                   under 104(b)(6) of this title or section 5305(g) of title 49,  
2                   United States Code.

3                   (q) Continuation of Current Review Practice.-Since plans and  
4                   TIPs described in this section are subject to a reasonable  
5                   opportunity for public comment, since individual projects  
6                   included in plans and TIPs are subject to review under the  
7                   National Environmental Policy Act of 1969 (42 U.S.C. 4321 et  
8                   seq.), and since decisions by the Secretary concerning plans  
9                   and TIPs described in this section have not been reviewed  
10                  under that Act as of January 1, 1997, any decision by the  
11                  Secretary concerning a plan or TIP described in this section  
12                  shall not be considered to be a Federal action subject to review  
13                  under that Act.

14                  (r) Bi-State Metropolitan Planning Organization.-

15                   (1) Definition of bi-state mpo region.-In this subsection,  
16                   the term "Bi-State MPO Region" has the meaning given  
17                   the term "region" in subsection (a) of Article II of the  
18                   Lake Tahoe Regional Planning Compact (Public Law 96–  
19                   551; 94 Stat. 3234).

20                   (2) Treatment.-For the purpose of this title, the Bi-State  
21                   MPO Region shall be treated as–

22                   (A) a metropolitan planning organization;  
23                   (B) a transportation management area under  
24                   subsection (k); and  
25                   (C) an urbanized area, which is comprised of a  
26                   population of 145,000 in the State of California

1 and a population of 65,000 in the State of  
2 Nevada.

3 (3) Suballocated funding.-

4 (A) Planning.-In determining the amounts under  
5 subparagraph (A) of section 133(d)(1) that shall  
6 be obligated for a fiscal year in the States of  
7 California and Nevada under clauses (i), (ii), and  
8 (iii) of that subparagraph, the Secretary shall, for  
9 each of those States-

10 (i) calculate the population under each of  
11 those clauses;

12 (ii) decrease the amount under section  
13 133(d)(1)(A)(iii) by the population  
14 specified in paragraph (2) of this  
15 subsection for the Bi-State MPO Region in  
16 that State; and

17 (iii) increase the amount under section  
18 133(d)(1)(A)(i) by the population specified  
19 in paragraph (2) of this subsection for the  
20 Bi-State MPO Region in that State.

21 (B) STBGP set aside.-In determining the amounts  
22 under paragraph (2) of section 133(h) that shall  
23 be obligated for a fiscal year in the States of  
24 California and Nevada, the Secretary shall, for  
25 the purpose of that subsection, calculate the  
26 populations for each of those States in a manner  
27 consistent with subparagraph (A).

1       (s) Additional Uses of Metropolitan Planning Funding.- In  
2       addition to carrying out the purposes of this section, funds  
3       provided to States and metropolitan planning organizations as  
4       apportioned under section 104 may be used for-  
5               (1) fiscal administration of local projects;  
6               (2) preliminary design;  
7               (3) administrative and overhead costs, general  
8               operating expenses, facilities and infrastructure costs;  
9               (4) local technical assistance;  
10              (5) housing studies directly linked to transportation;  
11              (6) economic development studies directly linked to  
12              transportation; and  
13              (7) critical data procurement.

14      **§135. Statewide and nonmetropolitan transportation**  
15      **planning**

16      (m) Designation of Regional Transportation Planning  
17      Organizations.-

18              (1) In general.-To carry out the transportation planning  
19              process required by this section, a State may establish  
20              and designate regional transportation planning  
21              organizations to enhance the planning, coordination,  
22              and implementation of statewide strategic long-range  
23              transportation plans and transportation improvement  
24              programs, with an emphasis on addressing the needs of  
25              nonmetropolitan areas of the State.

7 (3) Requirements.-A regional transportation planning  
8 organization shall establish, at a minimum-

9 (A) a policy committee, the majority of which  
10 shall consist of nonmetropolitan local officials,  
11 or their designees, and, as appropriate,  
12 additional representatives from the State, private  
13 business, transportation service providers,  
14 economic development practitioners, and the  
15 public in the region; and

16 (B) a fiscal and administrative agent, such as an  
17 existing regional planning and development  
18 organization, to provide professional planning,  
19 management, and administrative support.

20 (4) Duties.-The duties of a regional transportation  
21 planning organization shall include-

22 (A) developing and maintaining, in cooperation  
23 with the State, regional long-range multimodal  
24 transportation plans;

25 (B) developing a regional transportation  
26 improvement program for consideration by the  
27 State;

1 (C) fostering the coordination of local planning,  
2 land use, and economic development plans with  
3 State, regional, and local transportation plans  
4 and programs;

5 (D) providing technical assistance to local  
6 officials;

7 (E) participating in national, multistate, and State  
8 policy and planning development processes to  
9 ensure the regional and local input of  
10 nonmetropolitan areas;

11 (F) providing a forum for public participation in  
12 the statewide and regional transportation  
13 planning processes;

14 (G) considering and sharing plans and programs  
15 with neighboring regional transportation  
16 planning organizations, metropolitan planning  
17 organizations, and, where appropriate, tribal  
18 organizations; and

19 (H) conducting other duties, as necessary, to  
20 support and enhance the statewide planning  
21 process under subsection (d).

22 (5) States without regional transportation planning  
23 organizations.-If a State chooses not to establish or  
24 designate a regional transportation planning  
25 organization, the State shall consult with affected  
26 nonmetropolitan local officials to determine projects  
27 that may be of regional significance.

1 (n) Regional Transportation Planning Funding.-

2 (1) In General.- Not later than 180 days after the date of  
3 enactment of this Act, the Secretary shall establish a  
4 program to provide assistance to States to support  
5 Regional Transportation Planning Organizations and  
6 regional entities responsible for transportation planning  
7 or economic development planning in nonmetropolitan  
8 areas of the State in carrying out the duties contained in  
9 subsection (m) of this section.

10 (2) Use of Funds.- Funds made available to States under  
11 section 104(b)(9) of this title shall be utilized to-

12 (A) provide direct funding to federally designated  
13 Regional Transportation Planning Organizations  
14 to enable them to carry out the duties contained  
15 in paragraph (m)(4) of this section; and

16 (B) undertake activities, including the  
17 establishment of State-based pilot programs, to  
18 provide assistance to regional entities  
19 responsible for transportation planning or  
20 economic development in nonmetropolitan  
21 areas of the State to-

22 (i) increase the organizations  
23 understanding statewide transportation  
24 planning requirements;

25 (ii) provide technical assistance in  
26 building organizational capacity and  
27 developing transportation planning

1 expertise necessary to develop  
2 multimodal long-range transportation  
3 plans;

4 (iii) strengthening rural partnerships and  
5 collaboration;

6 (iv) enhance project prioritization and  
7 delivery;

8 (v) improve the overall statewide  
9 transportation planning process and  
10 respond to nonmetropolitan needs; and

11 (vi) secure Federal designation of regional  
12 transportation planning organizations.

13 (3) Eligible Recipients.- Funding made available to  
14 States under section 104(b)(9) of this title shall be made  
15 available to-

16 (A) regional transportation planning  
17 organizations as defined under section 134(b)(5);  
18 and

19 (B) regional entities responsible for  
20 transportation planning or economic  
21 development planning in nonmetropolitan areas  
22 of the State.

#### 23 (4) Distribution of Funds Within States.-

24 (A) In General.- The amounts made available to  
25 States to carry out this program under section

1 104(b)(9) of this title shall be distributed within  
2 the State-

3 (i) among all Federally Designated  
4 Regional Transportation Planning  
5 Organization through a formula  
6 developed by the State; and  
7 (ii) to non-Federally designated regional  
8 entities responsible for transportation  
9 planning or economic development  
10 planning in nonmetropolitan areas of the  
11 State through a grant process allowing  
12 regional entities to submit proposals for  
13 funding that achieve the objectives of this  
14 subsection.

15 (B) Secretarial Approval.- Both the formula  
16 distribution developed by a State under clause (i)  
17 of this paragraph and the grant process  
18 undertaken by a State under clause (ii) of this  
19 paragraph shall be approved by the Secretary.

20 (C) Minimum Allocation.- States receiving  
21 funding under this paragraph shall provide each  
22 federally designated regional transportation  
23 planning organization not less than \$300,000 in  
24 fiscal years 2027 through 2031 to carry out this  
25 subsection.

26 (5) Federal Share.- The Federal share payable on  
27 activities carried out with funds provided under this  
28 program shall be 100 percent.