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U.S. Department
of Transportation
Federal Highway
Administration

FINANCING FEDERAL-AID HIGHWAYS

Financing Federal-aid Highways

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Contents

Introduction ... 1

Authorization Act ... 2
Administration Bill ... 2
Congressional Bills ... 3
Federal-aid Highway Program ... 5
Title 23 U.S.C ... 7

Federal-aid Financing Procedures ... 8
Budget Authority ... 8
Reimbursable Nature of the Program ... 11
Deductions ... 11
Distribution of Funds ... 11
Availability ... 15
Transferability ... 15
Obligations ... 15
Federal Share ... 16
Reimbursement ... 17

Limitation on Obligations ... 19
Limitations ... 19
History of Highway Limitations ... 21
Summary ... 22

Appropriations ... 23
Appropriated Budget Authority ... 23
Contract Authority ... 24
Limitation on Obligations ... 24
Other Appropriations ... 25
Rescission ... 25
The Federal Budget and Appropriations Acts ... 25
Budget Firewalls and Guaranteed Funding ... 27
Revenue Aligned Budget Authority ... 29

The Highway Trust Fund ... 31
History ... 31
User Taxes ... 32
Collection ... 33
Pay-As-You-Go Fund ... 34
Balance of the Highway Trust Fund ... 35

Appendices

A Glossary ... 38
B Highways Authorizations ... 41
C Deductions (Takedowns) from Apportioned Programs ... 45
D Apportionment Formulas ... 46
E Penalties ... 48
F Surface Transportation Program—Sub-State Distribution ... 51
G Authorizations for Allocated Programs ... 52
H Federal Share and Period of Availability for Selected Programs ... 55
I Transferability Between Apportioned Highway Programs ... 57
J Step-by-Step Obligation Limitation Distribution ... 58
K Allocated Programs Subject to Sec. 1102(f) Reduction (“Lop off”) ... 59
L Federal Excise Taxes on Highway Motor Fuel ... 60

Endnotes ... 64

Figures

1 Congressional Procedures ... 5
2 Appropriated Budget Authority Programs ... 9
3 Contract Authority Programs ... 10
4 Reimbursement ... 18
5 FY 2006 Federal Spending ... 28

Tables

1 FY 2006 Limitation on Obligations ... 21
2 Timetable for Federal Budget Process ... 26
3 Guaranteed Funding ... 29
4 User Fee Structure ... 33
5 Operation of the Highway Account (Highway Trust Fund) ... 35

Introduction

Because of a continuing demand for information concerning the financing of Federal-aid highways, the Federal Highway Administration (FHWA) prepared a report, "Financing Federal-Aid Highways," in January 1974 to describe the basic process involved. The report was modified and updated in July 1976, May 1979, October 1983, November 1987, May 1992, and August 1999. These updates were prepared following enactment of new highway or surface transportation acts to reflect changes made by those acts.

Enactment of Public Law 109-59, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), has made it necessary to update the August 1999 version to incorporate the changes in financing procedures brought about by that act.

As with previous versions, this report follows the financial process from inception in an authorization act to payment from the Highway Trust Fund (HTF), and includes discussion of the congressional and Federal agency actions that occur throughout.

A glossary of terms used in this report can be found in Appendix A.

Authorization Act

The first and most crucial step in financing the Federal-Aid Highway Program (FAHP) is development of authorizing legislation. An authorization is a statutory provision that establishes or continues a Federal agency, activity, or program, and can be for either a fixed or indefinite period of time. Authorizing legislation for highways began with the Federal-Aid Road Act of 1916 and the Federal Highway Act of 1921. These acts provided the foundation for the FAHP as it exists today. The FAHP has been continued or renewed through the passage of multi-year authorization acts ever since then. Since 1978, Congress has passed highway legislation as part of larger, more comprehensive, multi-year surface transportation acts.

Surface transportation acts can vary in their scope and duration. Most surface transportation acts are major multi-year bills, such as the Intermodal Surface Transportation Efficiency Act (ISTEA) and the Transportation Equity Act for the 21st Century (TEA-21)[1], each of which covered a 6-year time span. However, a surface transportation act can also come in the form of a stop-gap funding bill, designed to extend the program and keep it operational while more comprehensive authorizing legislation is debated. After TEA-21 expired on September 30, 2003, an unprecedented total of 12 such short-term extensions, varying in duration from 2 days to 8 months, kept programs going for almost 2 years until Congress enacted the most recent multi-year reauthorization act for the FAHP, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) on August 10, 2005. The SAFETEA-LU includes eleven titles: I - Federal-aid Highways; II - Highway Safety; III - Public Transportation; IV - Motor Carrier Safety; V - Research; VI - Transportation Planning and Project Delivery; VII – Hazardous Materials Transportation; VIII - Transportation Discretionary Spending Guarantee; IX - Rail Transportation; X – Miscellaneous Provisions; and XI – Highway Reauthorization and Excise Tax Simplification.

The financing of other Federal programs may be much more dependent on a second legislative act, known as an appropriations act, than on authorizing legislation. Appropriations acts and their impact on the FAHP will be discussed in more detail in a later section. The remainder of this section is devoted to a general overview of the steps involved in developing an authorization act, and a more detailed description of the FAHP itself.

Administration Bill

The Administration (executive branch) normally proposes legislation to reauthorize highway and other surface transportation programs. Although not required to by law, the Administration develops a legislative proposal in order to present its position on the future of surface transportation. The Department of

Transportation (DOT) will prepare the proposed legislation, with affected operating administrations participating in the development. Operating administrations include the FHWA, the Federal Motor Carrier Safety Administration (FMCSA)[2]; the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA)[3], the Research and Innovative Technology Administration (RITA)[4], the Federal Railroad Administration (FRA), and the Federal Transit Administration (FTA). To ensure consistency with the Administration's policy, the Office of Management and Budget (OMB) reviews and approves the legislation prior to the Administration sending the bill to Congress.

The comprehensive Administration bill prepared by the DOT is introduced in Congress at the request of the Administration. Although the bill must be sponsored by at least one member of Congress in order to be introduced, this does not necessarily mean that the sponsor endorses all provisions in the proposed bill. Congress will consider the Administration bill in formulating its own legislation, and may incorporate entire provisions verbatim, but rarely enacts an entire Administration bill without change.

Congressional Bills

■ **Committees.** Because of the vast number of measures introduced in Congress and the wide array of subjects covered, Congress is broken up into committees, with each committee having jurisdiction over a specific area. These committees vary in size and each committee's title usually indicates the general scope of its jurisdiction. These committees conduct investigations, make studies, issue reports and recommendations, and review and prepare measures on their assigned subjects. Most committees also divide their work among several subcommittees with narrower focus and jurisdiction. This committee framework is designed to consolidate decisionmaking on broad public policy areas.[5]

Responsibility for developing surface transportation legislation rests with specific authorizing committees, and their appropriate subcommittees, in Congress. The Highways and Transit Subcommittee of the Committee on Transportation and Infrastructure in the House of Representatives, and the Subcommittee on Transportation and Infrastructure of the Committee on Environment and Public Works in the Senate have primary jurisdiction for a major part of the FAHP, including responsibility for drafting highway authorizing legislation. Furthermore, the jurisdiction of the House Transportation and Infrastructure Committee extends to mass transit and safety. In the Senate, however, the Commerce, Science, and Transportation Committee has jurisdiction over safety while the Banking, Housing, and Urban Affairs Committee has jurisdiction over mass transit concerns. Highway Trust Fund and other revenue matters fall under the purview of the House Ways and Means and the Senate Finance Committees. Thus, legislation involving surface transportation matters can occur simultaneously and independently in any of these committees in both the House and Senate.

Congress begins the authorization process by conducting hearings as a springboard for developing authorizing legislation, and normally holds such hearings on surface transportation about 9 months to a year before expiration of the current authorization act. The purpose of these congressional hearings is to give interested organizations, citizens, members of Congress, and the executive branch an opportunity to present their views on the future direction of Federal surface transportation programs.

Once the committee hearings are completed, the subcommittees begin preparation of draft surface transportation legislation, taking into consideration information obtained during the hearings. They may also include elements taken from proposed surface transportation bills submitted during the current session of Congress and referred to the full authorizing committees. Such bills may be proposed by several groups, including, as mentioned, by the Administration, as well as by members of Congress who have an interest in surface transportation, and by the chairmen or ranking minority members of full authorizing committees or subcommittees. Often, member-introduced bills concern only one facet of the program, such as safety initiatives or the bridge program. Bills proposed by committee leadership are usually comprehensive, and represent an attempt to reconcile competing views from several sources. Such bills commonly take on the name of their principal sponsor, frequently serve as the basis for additional committee hearings, and are primary documents in preparing draft legislation.

As the House and the Senate work independently on their separate bills, each body has its own schedule for hearings, committee meetings, and procedural votes. Although they may be developed concurrently, House and Senate surface transportation bills remain separate until brought together in Conference Committee, much later in the legislative process.

■ **Congressional Procedures.** Subcommittee members "mark up" (amend) the draft bill until a majority agree to submit the revised bill to the parent full committee which in turn holds its own mark up session. Entire new sections may be added, even to the point of preparing a completely different version, although this is uncommon. Once approved by a majority of the full committee, the bill is sent to other committees having jurisdiction over some aspect of the program (e.g., for Trust Fund matters, the House Ways and Means and Senate Finance committees would have jurisdiction). The bill is then "reported out" to the full chamber of its respective body of Congress.[6] Accompanying each bill is a committee report that expands upon the legislative language in the bill and is used by the executive branch and the courts to determine congressional intent. There are separate committee reports for the Senate bill and the House bill.

The proposed House surface transportation bill is debated, amended, and voted upon on the floor of the House of Representatives. The Senate follows the same procedure for its bill. When the Senate and House pass their respective bills, a conference committee is formed to reconcile differences and arrive at a mutually acceptable compromise.

Upon agreement by the conference committee, a single bill with its attendant report is returned to each body of Congress for final passage. Conference bills must be voted on in their entirety exactly as presented by the conferees. When the conference bill has passed both the House and Senate, it is transmitted to the President for signature.

Figure 1 displays the typical process as described.

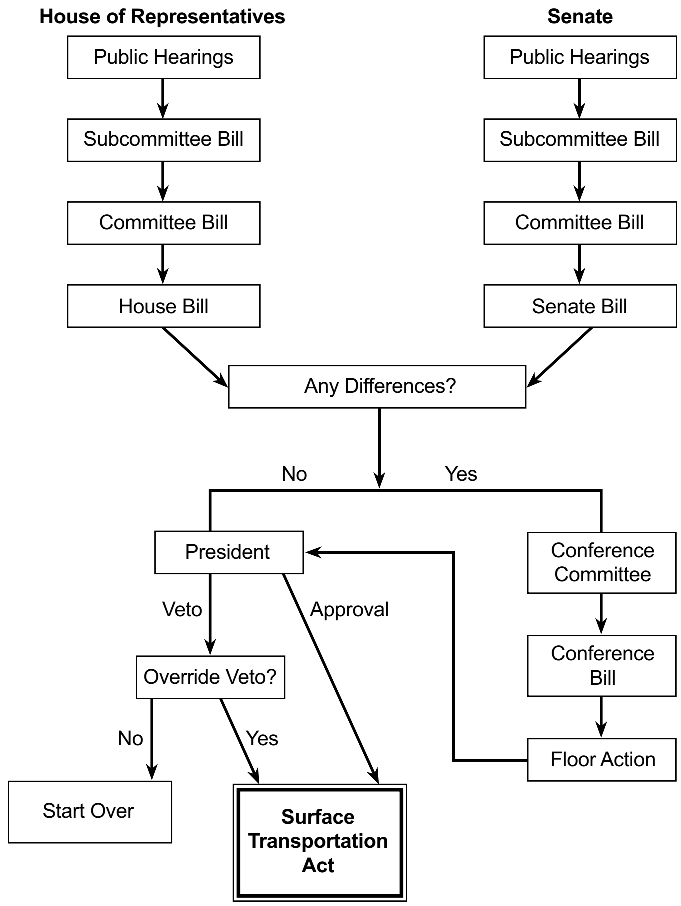


Figure 1. – Congressional Procedures (simplified, typical process)

Federal-aid Highway Program (FAHP)

It is critical to understand the meaning of the word "program." First, "program" is used as an umbrella term referring to activities administered by the FHWA.[7] When this report uses "program" in this all-encompassing sense, it will use the term "Federal-aid Highway Program." Second, "program" also refers to any one of the separately funded categories that make up the overall FAHP. For example, the Interstate Maintenance (IM) Program and the Surface Transportation Program (STP) each has its own specific and separate funding, described in law, and each is considered a program.

In addition to having its own distinct and separate funding, each program has associated with it certain activities for which that funding may be used. These are described in law and are referred to as eligible activities. These activities, often eligible under a number of programs, are not considered programs in the financial sense of the term as used in this report because the legislation does not single out these activities for specific funding.

When an authorization act establishes a program, it sets certain ground rules under which the program operates, including: the amount of funds available to the program for each fiscal year; a description of how those funds are to be distributed; the length of time during which the funds may be used, termed a period of availability; and a listing of eligible activities. These can be changed by subsequent authorization acts, as well as by other acts.

■ **Program Changes.** As pointed out earlier, authorization acts are the primary instruments used by Congress to shape and direct the FAHP. This is done by modifying existing programs, by adding or eliminating programs, and by changing requirements for programs. The following are examples of such actions in the SAFETEA-LU, but this list does not include all changes brought about by the act:

Modifying an existing program. Under the SAFETEA-LU, the Highway Bridge Replacement and Rehabilitation Program (HBRRP) is broadened in scope to include systematic preventative maintenance, and freed from the requirement that bridges must be considered "significantly important."[8] The Transportation, Community, and System Preservation Pilot Program (TCSP) is reauthorized in the SAFETEA-LU as a discretionary grant program, no longer a pilot, with a requirement that funds must be equitably distributed to a diversity of populations and geographic regions.[9]

Adding or eliminating a program. The SAFETEA-LU created a new core program, the Highway Safety Improvement Program (HSIP), with requirements for strategic highway safety planning.[10] Funded separately, the HSIP replaces the former highway safety infrastructure program funded by a STP set-aside. The Bridge Discretionary program, which funded high-cost bridge projects at the discretion of the Secretary, was terminated after fiscal year (FY) 2005.[11]

Modifying requirements. SAFETEA-LU provisions strengthen program and project oversight and increase the accountability of the States in the project delivery process through a number of provisions, such as lowering the threshold defining major projects to $500 million, requiring major projects to have project management plans in addition to the previously required finance plans, and requiring finance plans for projects exceeding $100 million in total cost.[12]

In addition to changing program features, authorization acts often contain requirements for studies. Studies are largely the result of either an impasse regarding the best solution to a problem or a lack of sufficient information to formulate a policy. The SAFETEA-LU requires submission of a variety of reports covering specific studies, pilot projects, and other special projects. Most of these reports are completed by the departmental agencies with primary oversight over the areas in question.

SAFETEA-LU also called for the creation of the National Surface Transportation Policy and Revenue Study Commission, charged with examining not only the condition and future needs of the nation's surface transportation system, but also short and long-term alternatives to replace or supplement the fuel tax as the principal revenue source to support the Highway Trust Fund over the next 30 years. The Commission's report to Congress will inform the development of the next surface transportation reauthorization act.

■ **Authorizations.** The other major purpose of authorization acts is to provide funding for programs. These funds are called "authorizations," and are the upper limits of funding made available to a program. The SAFETEA-LU authorized a total of $244 billion for highways, highway safety and transit. Appendix B lists the highway programs authorized by the SAFETEA-LU and the amounts provided through FY 2009.

The remainder of this report explains how the FAHP authorizations are distributed, the requirements associated with their use, the controls placed on spending, and the role of the Highway Trust Fund in highway spending.

Title 23 U.S.C.

New surface transportation authorization acts amend Title 23 of the United States Code (U.S.C.). Title 23, U.S.C., is titled "Highways" and includes most of the laws that govern the FAHP arranged systematically, or codified. Generally, Title 23, U.S.C., embodies those substantive provisions of highway law that Congress considers to be continuing and which need not be reenacted each time the FAHP is reauthorized. Each new surface transportation act specifies which sections of Title 23, U.S.C., are to be repealed, added, or amended.

Some provisions of surface transportation law are not incorporated into Title 23, U.S.C. Authorization amounts themselves are not usually codified. Examples of other provisions authorized by the SAFETEA-LU but not codified into Title 23, U.S.C. are the Transportation, Community, and System Preservation Program (Section 1117), Projects of National and Regional Significance (Section 1301), and the Safe Routes to School Program (Section 1404).

Federal-aid Financing Procedures

The financing cycle for the Federal-aid Highway Program (FAHP) begins when Congress develops and enacts surface transportation authorizing legislation, such as the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). For a specified period of years (the duration of coverage is not mandatory), the authorizing act not only shapes and defines programs, but also sets upper limits (authorizations) on the amount of funds that can be made available to the Secretary of Transportation, acting through the FHWA and other departmental agencies, to carry out these programs.[13]

Budget Authority

Once Congress has established these authorizations, the next question is *when* do they become available for obligation. The license to proceed with Federal programs is called "budget authority." There are two types of budget authority: "contract authority," which is available for obligation without further Congressional action, and "appropriated budget authority," which cannot be distributed and used until a second piece of legislation, an appropriations act, is passed.[14] Both concepts are described in the following paragraphs.

■ **Appropriated budget authority.** Most Federal programs operate using appropriated budget authority, which requires a two-step process to implement. The congressional passage of authorizations is only the initial step. This, in itself, does not permit the program to begin, but only sets an upper limit on program funding. The program may start, i.e., the authorizations may be distributed and used, only after passage of a second piece of legislation, the appropriations act. In an appropriations act, the Congress makes available the amount that can actually be used for the program. It is at this point that the program can proceed. In other words, "budget authority"—the approval to distribute, spend, loan, or obligate funds—has been granted through the appropriations act at the level of the appropriations, which may be equal to or lower than the originally authorized level of funding.

An example of an appropriated budget authority program in the SAFETEA-LU is Roadway Safety Improvements for Older Drivers and Pedestrians.[15] SAFETEA-LU authorizes "such sums as may be necessary," rather than specific dollar amounts, and funds will only be distributed for this program if subsequently provided in an appropriations act.

Figure 2 shows the typical procedural steps for appropriated budget authority programs.

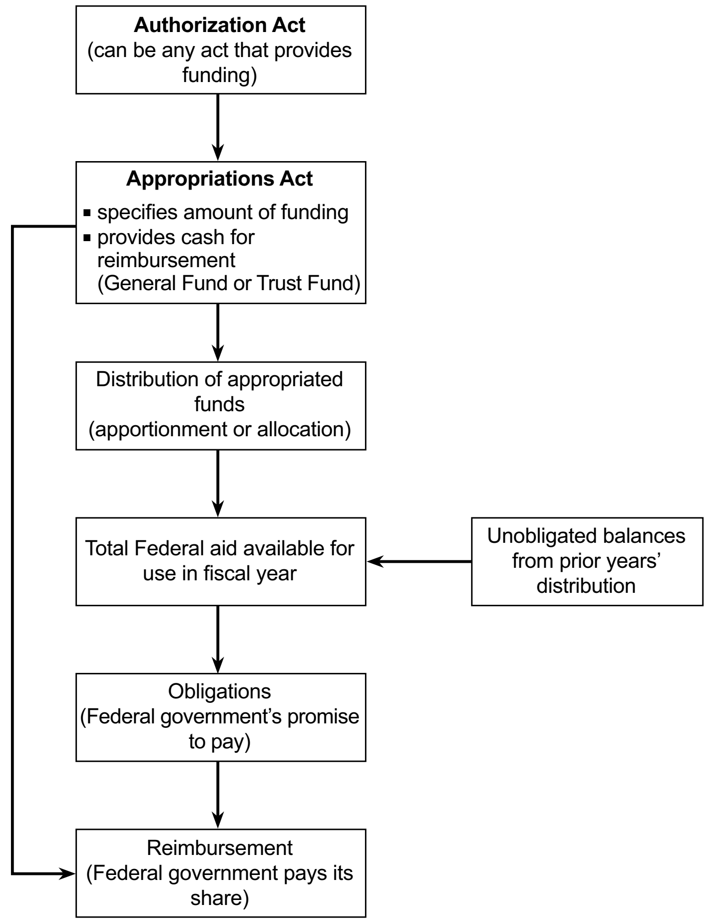


Figure 2. – Appropriated Budget Authority Programs.

■ **Contract authority.** Most of FHWA's programs, however, do not require this two-step process. Through what is termed "contract authority" (a special type of budget authority), authorized amounts become available for obligation according to the provisions of the authorization act without further legislative action. With respect to the FAHP, funds authorized for a fiscal year are available for distribution via apportionment or allocation (both concepts will be discussed in a subsequent section of this report) on the first day of that fiscal year (October 1). The use of contract authority, first legislated for the highway program in the Federal-Aid Highway Act of 1921, gives the States advance notice of the size of the Federal-aid program at the time an authorization act is enacted and eliminates much of the uncertainty contained in the authorization-appropriation sequence.

The financial procedures for contract authority programs are shown in Figure 3.

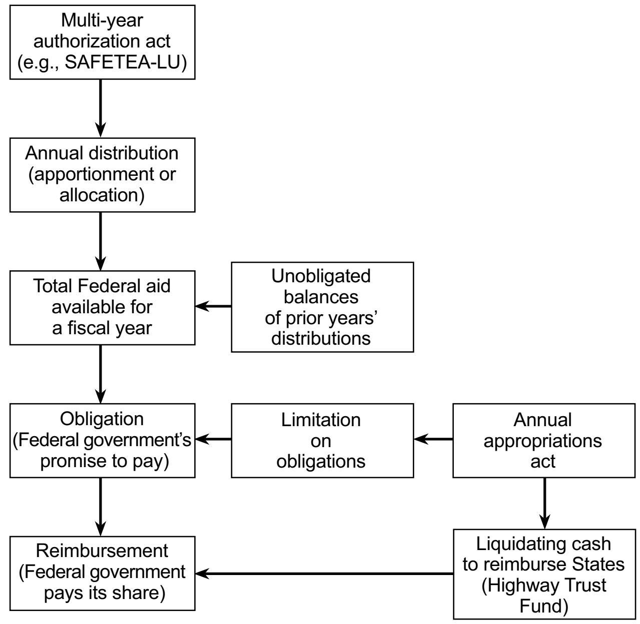


Figure 3. – Contract Authority Programs.

To have contract authority, a Federal-aid highway program must meet the following two criteria:

1) Chapter 1 reference. The authorization must be encompassed in Chapter 1 of Title 23, United States Code (U.S.C.), or its authorizing language must refer to Chapter 1. The primary wording conferring contract authority states that the Secretary of Transportation shall distribute funds that have been authorized[16] and the authorizations "shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first."[17] As stated earlier, apportionments and allocations will be discussed later in this section.

2) Trust funded. The program must be financed from the Highway Trust Fund (HTF). This link between the HTF and contract authority programs has existed since enactment of the Congressional Budget and Impoundment Control Act of 1974. Because one of the main purposes of that act was to give Congress greater control over Federal spending, it sought to reduce the number of programs that received budget authority prior to passage of appropriations acts, the legislation through which Congress annually meters spending. However, Congress also realized that there were certain programs, such as the highway program, that required advance knowledge of the size of future funding commitments to do long-range planning and to operate smoothly from year to year. Thus, the 1974 Budget Act permits several exceptions to the standard two-step, authorization/appropriation process. One of these is for programs whose new budget authority is derived from trust funds, 90 percent or more of whose receipts are user-related taxes.[18] The FAHP falls into this category since it is supported by the HTF, and was thus allowed to continue to operate with contract authority.

It should be recognized that, by definition, contract authority is unfunded and a subsequent appropriations act *is* necessary to liquidate (pay) the obligations made under contract authority.

Reimbursable Nature of the Program

It is important to understand that the FAHP is not a "cash up-front" program. That is, even though the authorized amounts are "distributed" to the States, no cash is actually disbursed at this point. Instead, States are notified that they have Federal funds available for their use. Projects are approved and work is started; then the Federal government makes payments to the States for costs as they are incurred on projects.[19] Furthermore, the amount of cash paid to the States reflects only the Federal share of the project's cost. The step-by-step procedures related to distributing and using authorized amounts are discussed later in this section under "Distribution of Funds."

Deductions

The law provides for some programs to be funded through deductions made prior to distribution of authorizations, such as the deduction made to finance metropolitan planning activities mandated by Section 134 of Title 23, U.S.C. Under SAFETEA-LU, the deduction is equivalent to 1.25 percent of the authorizations from IM, NHS, STP, CMAQ, and HBRRP.[20] These funds are distributed to each State through a formula prescribed by law and are made available to Metropolitan Planning Organizations (MPOs) by the State, subject to the approval of the Secretary.[21]

Although the deduction for metropolitan planning is now the only deduction applied across multiple programs,[22] other funds may be deducted for particular purposes. For example, a deduction of $30 million per year is made from the NHS authorization to fund the Alaska Highway program.[23] Another example is the deduction of $10 million per year from the STP authorization to fund On-the-Job Training/Supportive Services.[24]

A list of these deductions over the period of the SAFETEA-LU can be seen in Appendix C.

Distribution of Funds

Once these deductions have been made from the authorized amounts, the FHWA distributes the remainder (unless there is a penalty situation, as described below) among the States based on formulas (apportionments) and other procedures (allocations) as prescribed by law.

■ **Apportionments.** The distribution of funds using a formula provided in law is called an apportionment. An apportionment is usually made on the first day of the Federal fiscal year (October 1) for which the funds are authorized.[25] At that time, the funds are available for obligation by the State in accordance with the State's approved transportation improvement program.

A list of apportioned programs, as well as a description of the formulas by which the funds are distributed, is contained in Appendix D.

At the time of an apportionment, certificates denoting the sums deducted and the exact amount of each apportionment are issued by the FHWA, generally to the State's transportation agency. These certificates officially notify the States of the new funding available to them for each program. States then have the opportunity to request the Federal government to approve the obligation of funds in the various categories, thereby promising to reimburse the States later. Again, it is not cash that is apportioned.

When funds are distributed by apportionment, every eligible State is assured of receiving some portion of the amount distributed. Further, once an apportionment is made to a State, it cannot be taken away except by a congressional action (or by lapsing, which will be discussed later in this section).

■ **Penalties.** In order to enforce certain national priorities, the law may require the Secretary to take action that prevents a State from receiving/using its full apportionment. The action may be taken when the State does not comply with a required provision of law. Types of actions include the following:

Withhold apportionments. The law provides for penalties to encourage compliance with initiatives of national importance, such as minimum drinking age, zero blood alcohol concentration (BAC) tolerance for minors, and commercial driver's license provisions. For funds that are withheld, there may be a specific period of time by which the State must come into compliance before the withheld funds will lapse (be lost to the State). In some cases, the lapse can occur immediately.

Transfer apportionments. Another type of penalty situation requires that a portion of the noncompliant State's apportionment be transferred to another program within the State. An example of this type of penalty situation is the failure to enforce safety belt use.

Freeze use of apportionments or project approval. A penalty may also be imposed on funds that have already been apportioned by freezing (refusing to allow) project approvals in that State for any project financed with Federal funds, as is the case when a State fails to properly maintain its Federal-aid projects.

Appendix E contains a complete list of penalties associated with FHWA programs.

■ **Earmarking of apportioned funds.** Federal highway law requires that certain sums be used only for special purposes once they are apportioned to the States—

State planning and research. Two percent of the major categories (IM, NHS, STP, CMAQ, HBRRP, HSIP, and Equity Bonus funds) may only be used for planning and research activities. One-fourth of this amount must be used for research, development, and technology transfer unless the State certifies, and the Secretary accepts the certification, that transportation planning expenditures will require more than 75 percent of the earmarked amount.[26]

Transportation Enhancements (TE). Ten percent of the STP apportionment to a State, or the dollar amount of the TE setaside for the State for 2005, whichever is greater, must be reserved for transportation enhancement activities.[27] This covers a broad range of activities that include beautification, scenic or historic highway programs (including provision of tourist and welcome center facilities), establishment of transportation museums, and pedestrian and bicycle safety education and facilities.

■ **Further distribution of apportioned funds.** To promote the fair and equitable use of funds and to meet certain priorities, the remaining apportionments (after earmarkings) may be required by law to be further distributed within the State.

Surface Transportation Program. Of the remainder of the authorization after earmarking, 62.5 percent must be reserved in the following areas in proportion to the relative share each area constitutes of the State's population:

1) urbanized areas of over 200,000 population (the funds for which are further suballocated to each such area within a State based on the population of the area)[28], and

2) other areas of the State. Out of this portion, the State must reserve in rural areas below 5,000 population an amount equal to 110 percent of the amounts apportioned to the State for the Secondary Program in FY 1991.[29]

The remaining 37.5 percent can be used anywhere in the State.[30] Appendix F outlines the flow of funds for the Surface Transportation Program.

Highway Bridge Replacement and Rehabilitation Program. At least 15 percent of a State's HBRRP apportionment must be used for public bridge projects that are not on a Federal-aid highway.[31] The 15 percent requirement can be waived whenever the Secretary determines that this expenditure is not needed.

Disadvantaged Business Enterprises. Unless the Secretary determines otherwise, not less than 10 percent of the SAFETEA-LU authorizations for highway, transit, and research programs must be spent with small business concerns owned and controlled by socially and economically disadvantaged individuals.[32]

■ **Allocations.** Although most highway program funds are distributed to the States through apportionments, some categories do not have a legislatively mandated distribution formula. Distributions of funds when there are no formulas in law are called "allocations" and may be made at any time during the fiscal year.

In most cases, allocated funds are divided among States with qualifying projects using criteria provided in law. Some allocations are made entirely according to provisions in the law and others, such as the National Scenic Byways Program, allow for some discretion on the part of the Secretary in selecting recipients. Because of the limited funding for, and discretionary nature of, these programs, not every State will receive an allocation in a given fiscal year. If a State receiving an allocation does not use it within a specified period of time, it can be withdrawn and reallocated to other States.

Appendix G contains a list of allocated programs.

In some cases, Congress directs how certain allocated funds are to be distributed by requiring that particular projects are to receive specific amounts of funding. This may be done either in the legislative language or by including statements of congressional intent in the committee reports accompanying the legislation. Examples of congressionally directed funds in SAFETEA-LU include High Priority Projects[33] and Transportation Improvements[34].

It is important to note that in distributing Federal-aid highway funds, whether by apportionment or allocation, the entire amount of the authorization will be distributed (except in the case of a penalty situation, as discussed earlier).

■ **Funding equity.** Federal-aid highway funds for individual programs are apportioned by formula using factors relevant to the particular program. After those computations are made, additional funds are distributed to ensure that each State receives an amount based on equity considerations. In SAFETEA-LU, this provision is called the Equity Bonus[35] (replaces TEA-21's Minimum Guarantee) and ensures that each State will be guaranteed a minimum rate of return on its share of contributions to the Highway Account of the Highway Trust Fund, and a minimum increase relative to the average dollar amount of apportionments under TEA-21, and that certain States will maintain at least the share of total apportionments they each received during TEA-21. An open-ended authorization is provided, ensuring that there will be sufficient funds to meet the objectives of the Equity Bonus.

The three elements of the Equity Bonus computation are as follows:

First, each State's share of apportionments from the Interstate Maintenance (IM), National Highway System (NHS), Bridge, Surface Transportation (STP), Highway Safety Improvement (HSIP), Congestion Mitigation and Air Quality Improvement (CMAQ), Metropolitan Planning, Appalachian Development Highway System, Recreational Trails, Safe Routes to School, Rail-Highway Grade Crossing, and Coordinated Border Infrastructure programs, the Equity Bonus itself, along with High Priority Projects will be at least a specified percentage of that State's share of contributions to the Highway Account of the Highway Trust Fund. The specified percentage, referred to as a *relative rate of return*, is 90.5% for 2005 and 2006, 91.5% for 2007, and 92% for 2008 and 2009.

States with certain characteristics (e.g., low population density or total population, low median household income, high Interstate fatality rate, high indexed state motor fuel tax rate) have an additional guarantee – that that State's share of apportionments and High Priority Projects will be at least as high as the State's average annual share under TEA-21. Thus, these States may receive more than the amount guaranteed by relative rate of return (described in previous paragraph) if the average annual TEA-21 share calculation is higher.

Finally, in any given year, no State is to receive less than a specified percentage (117% for 2005, 118% for 2006, 119% for 2007, 120% for 2008, and 121% for 2009) of its average annual apportionments and High Priority Projects under TEA-21.

All but $2.639 billion annually of Equity Bonus funding is programmatically distributed among certain programs—IM, NHS, Bridge, CMAQ, STP, and HSIP. Amounts programmatically distributed to the programs take on the eligibilities of those programs. The remaining $2.639 billion has the same eligibilities as STP funds, but is not subject to the STP set-asides or suballocations. Of this remainder, $639,000,000 is exempt from the obligation limitation and $2 billion receives special no year obligation limitation.

Availability

When new apportionments or allocations are made, the amounts are added to the program's unused balance from previous years. For example, newly apportioned NHS funds are added to any existing balance of unused (unobligated) NHS funds. This situation arises because Federal-aid highway funds are available for use (obligation) for more than one year. Their availability does not terminate at the end of the fiscal year, as is the case with many other Federal programs.

■ **Period of Availability**. As specified in law, most of the major Federal-aid program funds are available "…for a period of three years after the last day of the fiscal year for which the funds are authorized…"[36] Thus, they are available for 4 years. For example, FY 2006 NHS funds apportioned on October 1, 2005, are available until September 30, 2009. It is also possible that some funds may be available until they are expended (such as for High Priority Projects), and are known as "no-year" funds. Appendix H lists major program categories for which new authorizations are provided by the SAFETEA-LU, and their period of availability.

■ **Lapse.** Should a State not obligate a particular year's funding within the period of availability, the authority to obligate any remaining amount lapses—it is no longer available.[37] An exception to this lapsing provision is the HBRRP apportionment. In the unlikely event that HBRRP funds are unused after 4 years, they would be pulled back from that State and redistributed to the other States.[38]

When a State obligates funds, it is assumed that the oldest funds in a given category are obligated first. Through this first-in, first-out method, the oldest funding still available for obligation is considered to be used first. When funds lapse, no cash need be returned to the Federal government since there was never any cash distributed.

Transferability

The level of authorizations reflects Congress' relative priority among the many Federal-aid funding categories. However, the States may have differing needs or priorities. In response to this, the law provides flexibility in the use of specific sums,[39] such as by permitting transfers to be made among certain apportioned highway programs. Appendix I contains a list of the options for transferring funds among the programs.

The law also allows for States to request the transfer of funds among entities (e.g., between FHWA and the Federal Transit Administration, and from one State to another or to the FHWA to fund one or more eligible projects) for ease of administration. In these instances, transferred funds are still used for the original purpose.

Obligations

An obligation is a commitment—the Federal government's promise to pay a State for the Federal share of a project's eligible cost. This commitment occurs when the project is approved and the project agreement is executed.[40] Obligation is a key step in financing. Obligated funds are considered "used" even though no cash is transferred.

Obligation also is the step in the financing process under contract authority programs where budgetary controls may be imposed. If such controls are necessary, they are usually achieved by the imposition of limitations on the FAHP obligations (this is discussed later in the "Limitation on Obligations" section).

Federal Share

With a few exceptions, the Federal government does not pay for the entire cost of construction or improvement of Federal-aid highways. To account for the necessary dollars to complete the project, Federal funds must be "matched" with funds from other sources.

■ **Federal share percentages**. Unless otherwise specified in the authorizing legislation, most projects will have an 80 percent Federal share.[41] Exceptions include—

Interstate System. The Federal share for projects on the Interstate system is 90 percent (unless the project adds lanes that are not high-occupancy-vehicle or auxiliary lanes, in which case the Federal share will revert to the 80 percent level).[42]

Sliding scale. States with large amounts of Federal lands have their Federal share of certain programs increased up to 95 percent in relation to the percentage of their total land area that is under Federal control.[43]

100 percent Federal funding. Some types of projects require no matching funds—the Federal government pays up to 100 percent of the cost of certain projects, such as Federal Lands Highways projects; Emergency Relief projects (for certain emergency repairs made within 180 days of the event causing the need for such repairs)[44]; Highways for LIFE projects[45]; Highway Use Tax Evasion projects[46]; and certain safety projects.[47]

Tapered Match. In some cases, a tapering match may be approved in which the Federal share may vary (not to exceed 100 percent) on individual progress payments on a project as long as the final contribution of Federal funds does not exceed the maximum Federal share authorized for the project.[48] Progress payments are permitted as long as a project agreement has been executed pursuant to Section 106 of Title 23, U.S.C.[49]

Appendix H shows the basic Federal share for selected programs.

■ **Sources for matching funds**. The required matching funds can come from the following sources:

1) State and/or local governments' funds;
2) private contributions;
3) credit for donated private property or land lawfully obtained by the State or local government without the use of Federal funds;[50]
4) toll revenue credits may be applied to the non-Federal share of certain highway and transit projects,[51]
5) other Federal agencies, if specifically authorized in law, such as:
    -- Federal land management agency funds may be used toward the non-Federal share of any Federal-aid highway project the Federal share of which is funded under title 23 or chapter 53 of title 49;[52]
    -- funds from other Federal agencies may be applied to meet matching requirements for transportation enhancement projects;[53]

6) Federal Lands Highway Program funds, for Federal-aid projects that provide access to or within Federal or Indian lands.[54]

7) Recreational Trails funds may be used to match other Federal program funds for purposes that would be eligible under the Recreational Trails program. Funds from any other Federal program may be used to fulfill the non-Federal share requirement for Recreational Trails projects, for purposes eligible under the program from which the funds are derived.[55]

Reimbursement

The FAHP is a reimbursable program. States are not apportioned cash but rather are notified that a balance of Federal funds is available for their use, meaning that the State can incur obligations, begin projects, and then later be reimbursed for eligible costs incurred. The project need not be completed, however, before a State begins to receive reimbursement. Depending upon the type of the project, the time elapsing from obligation to reimbursement can vary from a few days to several years.

While payments normally are made to the States, if projects have been initiated on toll facilities under the jurisdiction of a public authority in a State, reimbursements can be made directly to that public authority if requested by the State transportation department.[56]

The normal sequence of events for reimbursement is:

1) Work is done by a contractor.
2) The contractor sends a bill to the State and the bills for all work done throughout the State are processed by the State.
3) Vouchers for the bills are sent electronically by the State to the FHWA for review and approval.
4) The FHWA certifying officer certifies the State transportation department's claim for payment.
5) Certified schedules are submitted to the Treasury Department.
6) The Federal share of the cost for all projects on the vouchers is transferred directly from the Treasury Department to the State's bank account by electronic fund transfer.

It is possible that steps 3 through 6 may occur on the same day. The timing of the Federal payment to the State is governed by an agreement between the State and the U.S. Treasury in accordance with the Cash Management Improvement Act of 1990.[57] The FHWA's payments are generally deposited in the State's account on the same day payments to the contractor are made.

This sequence repeats, often beginning again before the previous round is completed. This is illustrated in Figure 4.

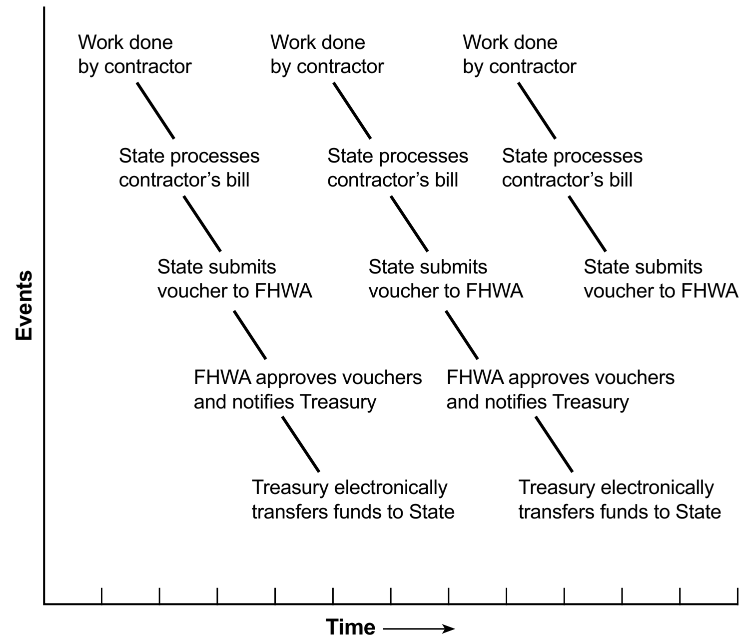


Figure 4. – Reimbursement.

Limitation on Obligations

The foregoing discussion has described the routine procedures for financing the Federal-Aid Highway Programs (FAHP) that have contract authority: authorizing legislation, distribution of funds, obligations, and reimbursements. Again, because of contract authority, the flow of these program funds is not directly affected by the annual appropriations process. This permits a smooth and stable flow of Federal-aid to the States, but this very benefit can be a disadvantage to overall Federal budgeting. A major function of the appropriations process is to assess the current need for, and effect of, Federal dollars on the economy. The appropriations process has been the traditional way to control Federal expenditures annually. But the highway program, with multiple-year authorizations and multiple-year availability of funds, would appear to be exempt from this annual review. The question arises: how can the highway program be covered under annual Federal budget decisions?

The answer is to place a limit, or ceiling, on the total obligations that can be incurred for the FAHP during a year. By controlling obligations annually, the program may be made more responsive to budget policy. As was discussed in the previous section, once an obligation is made, the Federal government must reimburse the States when bills become due. That "promise" must be kept. Consequently, it is impossible to place direct controls on outlays. However, Congress can limit obligations, thereby preventing that promise—and the subsequent payment—from being made. It should be pointed out that a limitation on obligations in a given year does not affect the scheduled apportionment or allocation of Federal-aid highway funds after they are authorized. The obligation ceilings set in the SAFETEA-LU for fiscal years 2005 through 2009 are part of the guaranteed level of spending[58] (see discussion under "Appropriations"). Each year, the appropriations legislation will confirm or modify these ceilings.

Limitations

A limitation on obligations acts as a ceiling on the sum of all obligations that can be made within a specified time period, usually a fiscal year. In general, a limitation is placed on obligations that can take place during a certain fiscal year, regardless of the year in which the funds were apportioned or allocated. A few, specific programs, however, have limitation which may only be used for that program, and which may be carried over for several years or until it is used. This will be discussed in more detail later in this section.

There are certain programs within the FAHP that are exempt from the obligation limitation. These programs include the Emergency Relief program, certain balances of programs exempt under previous Acts, and a portion of the Equity Bonus program ($639 million per year). Accordingly, obligations from these programs do not count against the obligation limitation.[59]

The obligation limitation is divided among programs and the States based on a multi-step process provided in the SAFETEA-LU[60], but this process can be changed for a single year by the annual DOT Appropriations Act. A step-by-step analysis of the obligation limitation distribution process, using FY 2006 as an example, is shown in Appendix J.

Under this distribution process, limitation is first reserved, or set aside, for administrative expenses, the Bureau of Transportation Statistics, the Highway Use Tax Evasion program, and carryover balances for allocated programs from previous years.[61]

The limitation that remains after these initial set-asides are made is then compared to the total remaining new authorizations subject to the limitation for the year.[62] This ratio of total limitation to total authorizations (the "limitation ratio") is used in the remaining steps of the distribution process to determine how much limitation each program or State receives.

Next, the limitation ratio is used to calculate how much limitation is set aside for certain programs—High Priority Projects, the Appalachian Development Highway System, Projects of National and Regional Significance, National Corridor Infrastructure Improvement program, Transportation Improvements, and designated Bridge projects. The limitation set aside for these programs remains available until it is used. Similarly, $2 billion in limitation is set aside for $2 billion of funding for the Equity Bonus program and this limitation is also available until it is used; that is, it is "no-year" limitation.[63] It should also be noted that the lop off provision (described below) does *not* apply to these programs; i.e., the amount of the authorizations that may not be used due to the limitation simply carries forward to the next year.

Using the limitation ratio, limitation is then set aside for remaining allocated programs.[64] The amount of limitation each allocated program receives is calculated by multiplying the new authorization for the fiscal year of each program by the limitation ratio. The SAFETEA-LU also provides that the limitation reserved for research programs through this process is available for 3 years instead of expiring at the end of the year.[65]

In years when the total limitation is *less* than the total new authorizations, the authorizations for these allocated programs are reduced to the amount of limitation they receive.[66] The authorizations that are removed or *"lopped off"* from these programs are then distributed to the States as additional funding that can be used on STP-eligible projects. For example, in FY 2006, the National Scenic Byways Program was authorized at $29,700,000 and the limitation ratio for the year was 87%, resulting in $25,839,000 in limitation being set aside for the program. Consequently, the authorization was reduced to $25,839,000 and the excess $3,861,000 was distributed to the States.[67] A complete list of affected programs is provided in Appendix K.

After these set-asides are made, the balance of the limitation is then distributed among the States with each State's portion of the limitation being based on the State's relative share of the total of apportioned funds (subject to the limitation) to all States for the fiscal year.[68] This limitation is available only until the end of the fiscal year.

The law also provides for a redistribution on August 1 of each fiscal year of the obligation ceiling from those States and programs unable to obligate their share of the full ceiling to other States that are able to obligate more than their initial share of the ceiling.[69] This ensures the total limitation which is available for only 1 year will be used. The multi-year and no-year limitation that may be carried over is not subject to this provision.

Table 1 illustrates how an actual limitation on obligations affects the highway program.

Table 1. – FY 2006 Limitation on Obligations* (for illustrative purposes only).
(Amounts in Billions of Dollars)

Unobligated Balance (9/30/2005)	$32.2
Unobligated Balance with Special Carryover Limitation:	
FY 2005 No-Year Limitation	-8.7
FY 2005 Multi-Year Limitation	-0.5
Unobligated Balance without Carryover Limitation	23.0
New Apportionments/Allocations	+38.0
Total Funding Available without Carryover Limitation	61.1
FY 2006 Limitation	–35.7
Amount Not Available for Obligation in FY 2006	25.3

* Applies to all Federal highway contract authority programs subject to the limitation.

It is important to recognize that the distribution and redistribution of the individual State ceilings do *not* constitute a grant or a retraction of apportioned and allocated sums. A State already has received apportionments or allocations as a result of authorizations in highway acts; the limitation is only *how much* of the State's total unobligated balance of apportionments and allocations that the State may obligate during a given fiscal year.

Although a ceiling on obligations restricts how much funding a State may use in a fiscal year, the ceiling does give States more flexibility than an outright funding reduction. Each State receives a single, overall ceiling for the fiscal year that covers all of its programs, except those that are either exempt or receive special or no-year limitations. Within this overall limitation, the State has the flexibility to determine the best combination of program funds to obligate in each category (e.g., STP, NHS, CMAQ) based on its individual needs, as long as it does not exceed the ceiling in total. Also, the unobligated balance of apportionments or allocations that the State has remaining at the end of any fiscal year is carried over for use by that State during the next fiscal year.

History of Highway Limitations

The highway program has been subject to limitations since 1966. In the early years, the executive branch limited obligations. The common term for this action was "impoundment." But, a turnabout came with enactment of the Congressional Budget and Impoundment Control Act of 1974.[70] This act established a formal process for the Executive Branch and the Congress to follow in setting limits on the use of authorized funds.

Beginning with FY 1976, Congress became the branch of government that places annual limitations on obligations. However, the President's budget each year has recommended a level for the ceiling to be imposed on the program. This recommendation is only a proposal to Congress for enactment. The Congress will consider it but may or may not actually follow the recommendation.

Congress places limits on the program through a legislative act, most frequently in an appropriations act since limitations are a form of budget control. But they may also appear in other acts such as surface transportation authorization acts or reconciliation bills.

Summary

Highway programs having contract authority receive special consideration in that contract authority allows the obligation of funds based on an authorization act only. These highway programs are not affected by the annual adjustments in funding levels made to appropriated budget authority programs through the appropriations process. In order to control the highway program and make it responsive to current budgetary conditions, Congress imposes limits on the amount of multi-year Federal-aid highway apportionments and allocations that can be obligated each year. These limitations may be proposed by the executive branch but must be enacted by Congress to take effect. Limitations do not take back funds already provided to the States; they only slow the rate of obligation. The obligation limitation does result in the permanent loss of authorized funds from certain allocated programs through a "lop off" provision; these "lopped off" funds are not lost to the FAHP, as they are apportioned to the States.

Appropriations

The fiscal operations described so far have related to provisions contained in the authorization acts governing the highway program. Yet, as the last section described, there are also other legislative acts, such as appropriations acts, that affect the highway program. Though most of the Federal-aid highway programs do not receive budget authority through appropriations acts as do most other Federal programs, the appropriations act is important in the fiscal process.

For the most part, appropriations that are enacted for the highway program are contained in the annual DOT Appropriations Act[71], although they can be placed in other legislative acts such as a supplemental appropriations act. In addition to affecting the FHWA's programs, these acts also affect all other DOT agencies, as well as activities of related independent agencies such as the Architectural and Transportation Barriers Compliance Board and the National Transportation Safety Board.

The FHWA part of the act is divided into several accounts, each covering one or more highway funding categories. The accounts can be classified according to whether the type of programs composing them have contract authority or budget authority.

Appropriated Budget Authority

As stated, most Federal programs obtain their budget authority through the appropriations process. This type of funding is called "appropriated budget authority" because two steps—an authorization act and an appropriations act—are needed before obligations can be incurred. Under this process, a program (or project) is required to be authorized as part of an authorization act before funds can be appropriated for it. For an appropriated budget authority program, then, the appropriations act is crucial since it gives the go-ahead to obligate authorized funds, as well as the cash needed for reimbursement.

It should also be pointed out, however, that appropriations bills sometimes appropriate funds for programs or projects for which there is no supporting authorization. Such an action is against the budgetary rules set by Congress and can be contested by a single member of Congress raising an objection (point-of-order) against the measure. However, if a point of order is not raised and the legislation is enacted, the measure stands.

Although the majority of FHWA's programs are funded through contract authority, budget authority is provided for some highway programs through appropriations acts. For example, the FY 2006 DOT Appropriations Act provided $20 million in appropriated budget authority for the Appalachian Development Highway System.[72]

The source of funding for the appropriated budget authority accounts can be either the General Fund of the Treasury or the Highway Trust Fund (HTF). Since implementation of the Budget Act of 1974, general funded programs must have appropriated budget authority; i.e., they cannot have contract authority.

Contract Authority

Funds for contract authority programs can be obligated in advance of appropriations based upon the provisions of an authorization act. Although obligations are commitments to reimburse the States for the Federal share of a project's cost, actual cash reimbursements by the Department of the Treasury cannot be made until they are appropriated. This, then, is the primary function of an appropriations act as it relates to the major part of the highway program—the provision of the cash to liquidate the Federal commitment. The act provides the bulk of this cash in one account, Federal-Aid Highways, which covers liquidating cash needs for most of the contract authority, trust-funded categories. Examples of programs included in the Federal-Aid Highways account are the Surface Transportation Program, Interstate Maintenance Program, Transportation, Community, and System Preservation Program, and High Priority Projects.

The $36.0 billion of liquidating cash provided by the FY 2006 DOT Appropriations Act in the Federal-aid highway account was based on an estimate of prior unpaid obligations plus new obligations incurred during FY 2006 for which vouchers are expected to be presented by the States for payment during the fiscal year. Therefore, this amount is the consequence of the authorization/obligation process but is not equivalent to either the amount authorized for FY 2006 or expected to be obligated in FY 2006. The liquidating cash amount will change from year to year. As discussed earlier, the liquidating cash provided in the accounts covering contract authority must come from the HTF because of the link established in the Budget and Impoundment Control Act between trust fund financing and contract authority.

Limitation on Obligations

Since the nature of the highway program (i.e., contract authority and reimbursement) prevents direct Federal control of cash outlays in any year, Congress relies on limitations on obligations to control the program and make it more responsive to prevailing budget and economic policy. By placing a ceiling on obligations, future cash outlays are indirectly controlled. It is in the budget/appropriations process that Congress concerns itself with overall Federal spending in terms of cash outflow; thus, a limitation on obligations will be included in an appropriations act.

A limitation on obligations and the process for distribution was included in the SAFETEA-LU for each of the years covered by the act. However, Congress may change the amounts set or revise those procedures in the annual DOT Appropriations Act. Again, this limitation is not restricting the amount of cash for reimbursements, but is a ceiling on obligations that can be incurred during the fiscal year. The ceiling for the FAH account of $36.032 billion for FY 2006 was set in the SAFETEA-LU and confirmed in the FY 2006 DOT Appropriations Act, but was subsequently reduced by a government-wide rescission.[73]

Other Appropriations

In addition to the annual DOT Appropriations Act, other appropriations actions can affect the funding available for the FAHP. A supplemental appropriations act is sometimes necessary during the course of a fiscal year when it becomes apparent that additional funds are needed for key operations of the Federal government. The Administration will request that Congress enact supplemental legislation when it foresees this situation. By far, the most common program relating to highways for which supplemental appropriations have been enacted is the Emergency Relief program.

A continuing resolution provides necessary appropriations to tide agencies over when a regular annual appropriations act has failed to be enacted by the beginning of the fiscal year. For the Federal highway program, the resolution provides liquidating cash so that reimbursements for authorized programs can continue to be made to the States. It may also provide an obligation limitation. A continuing resolution usually provides resources by specifying a maximum rate of use based on the previous year or the lower of the amounts provided in appropriations bills passed in the House or the Senate. In recent years, continuing resolutions have become commonplace and it has become more routine for continuing resolutions, like appropriations acts, to include provisions that establish (authorize) new, albeit small, programs.

Rescission

Through legislation, unused balances of previously authorized funds can be rescinded (cancelled). In 1986 and 1990, a specified percentage of contract authority was sequestered (in effect, rescinded) when the overall Federal spending exceeded certain Budget Act[74] targets, triggering automatic sequestration provisions. Similarly, in 1996, the authorizations for the FAHP were reduced due to a budget compliance provision included in Section 1003(c) of the ISTEA which placed a cap on the amount of funding that could be authorized out of the HTF in total between 1992 and 1996. This provision was triggered by the open-ended equity adjustment authorizations, contained in the ISTEA, which provided more funding to the States than was originally estimated at the time the act was passed.

In recent years, across-the-board cuts have been enacted during the appropriations process, typically in the last passed appropriations act for the fiscal year. These cuts are used to bring the total amount appropriated in all the appropriations acts for the fiscal year into line with the amount agreed to in the budget resolution or some other spending target. While the specifics of the cuts have varied, typically the cuts have applied government wide to all programs on the discretionary side of the budget, cutting appropriated budget authority, obligation limitations, and contract authority subject to obligation limitations.

Once funds are eliminated (by any mechanism), they cannot be obligated by the States.

The Federal Budget and Appropriations Acts

Omitted from the previous discussion was an explanation of how the amounts in the appropriations acts are derived. The usual course of events starts in the spring of each year, about 1½ years before the beginning of the fiscal year being addressed, when the FHWA begins work on the budget. Included in the FHWA budget are: (1) estimates of outlays (necessary cash to liquidate obligations), (2) proposed budget authority for those programs that do not have contract authority, (3) a proposed level of obligations for the Federal-aid programs that have contract authority, should some measure of control be considered necessary, (4) an estimate of the anticipated administrative costs to run the agency and oversee the program, and (5) the amount of revenue aligned budget authority (will be discussed at the end of this section). Also reviewed are policy issues that may affect the upcoming budget.

Development of the budget progresses through the FHWA, the Office of the Secretary of Transportation, and the Office of Management and Budget, where final decisions are made in early fall. The executive branch's budget activities culminate in the submission to Congress of the President's Federal Budget on the first Monday in February, less than 9 months before the fiscal year begins.

In the spring, Congress formulates its own version of the Federal budget, using the President's budget as input. The Budget Committees (one in the House and one in the Senate) were established by the 1974 Congressional Budget and Impoundment Control Act to fulfill the function of drawing up budget resolutions and shepherding them through their respective houses. The budget resolutions set spending and tax levels and must also explicitly set a deficit or surplus level for the year. The House- and the Senate-approved budget resolutions then go through the conference committee process, and the agreed-upon version is sent back to each house for approval. The President's signature is not required on budget resolutions. The congressionally-approved budget resolution is intended to guide the committees in formulating legislation for the next year.

If all is on schedule, all appropriations acts (including the DOT's) are passed and signed by the President by October 1 of each year (the House is supposed to complete action on the acts by June 30). If, as often is the case, the DOT Appropriations Act is not enacted on time, then reimbursing cash is provided through a continuing resolution as previously discussed. The Administration will establish a temporary obligation limitation based on the length of the continuing resolution and the House and Senate actions to date on the full appropriation legislation. The apportionment or allocation of funds for contract authority programs will proceed on schedule whether or not an appropriations bill has been enacted because contract authority programs proceed on the basis of an authorizing act alone.

Table 2 shows the timetable for the Federal budget process.

Table 2. – Timetable for Federal Budget Process.

First Monday in February	President submits budget
February 25	Committees submit views and estimates to Budget Committee
April 15	Deadline for adopting budget resolution for coming year
May 15	Annual appropriations bills can be reported out
June 10	Deadline for reporting out all appropriations acts by House
June 30	Deadline to pass all appropriations acts by House
September 30	Deadline for enacting all spending measures
October 1	Fiscal year begins

The congressional procedures for enacting an appropriations act are like those for an authorization act described in "Authorization Act" and illustrated in Figure 1. One major difference is that the committees with jurisdiction are the Appropriations Committees and their transportation subcommittees in both the House of Representatives and the Senate. Also, with appropriations acts, action must originate in the House of Representatives.

Budget Firewalls and Guaranteed Funding

In general, the Federal budget takes into account all spending and revenue raising activities of the Federal government. If total spending in any fiscal year exceeds total revenue, the excess spending is the deficit for that fiscal year. Conversely, if revenue exceeds spending, there is a budget surplus in that fiscal year. The amount of budget deficit is important because it largely determines the amount of funds the government must borrow from the private economy to pay for excess spending during a fiscal year. The Federal debt, also referred to as the "national debt," is the accumulated debt of the Federal government. Whenever the Federal government runs a budget deficit, the additional borrowing to finance the deficit adds to the Federal debt. By contrast, if the Federal government runs a budget surplus, the Federal debt will decrease if the Treasury uses the surplus to reduce the outstanding debt.

The Budget Enforcement Act of 1990 (BEA1990) established multi-year deficit reduction goals and established the basic spending control framework that remains in use today. It divided spending into two categories—mandatory and discretionary—based on the ability of Congress to control the spending through the annual appropriations process.

Mandatory spending generally includes all spending for specific programs that is made pursuant to laws other than appropriations laws. The fundamental characteristic of mandatory spending is the lack of annual discretion to establish spending levels due to a binding legal obligation by the Federal government to provide funding for an individual, program or activity. Generally, Congress and the President cannot increase or decrease spending for these programs in a given year without changing existing substantive law. Mandatory spending accounts for about two-thirds of all spending and is authorized by permanent law. It includes outlays for entitlement programs—such as Food Stamps, Social Security, Medicare, and veterans' benefits—through which individuals receive benefits because they are eligible based on their age, income, or other criteria. It also includes interest on the national debt and non-entitlements such as payments to States from Forest Service receipts. Two surface transportation programs are mandatory—the $100 million in Emergency Relief provided in section 125 of Title 23, U.S.C. and $639 million per/year of the Equity Bonus program.

By contrast, discretionary spending refers to those programs that are subject to annual funding decisions in the appropriations process. The Congress may reduce spending for a discretionary program by reducing its annual appropriation or, in the case of a contract authority program, by imposing an obligation limitation. Most of the operations of the Federal government are funded by discretionary spending through the 11 annual appropriations bills. Examples of discretionary spending—which accounts for approximately one-third of the all Federal spending—include funding for the Department of Defense, the Federal Bureau of Investigation, the Internal Revenue Service, the Environmental Protection Agency, and transportation.

Figure 5 shows the total spending for the Federal government for FY 2006, split between the mandatory and discretionary categories.[75]

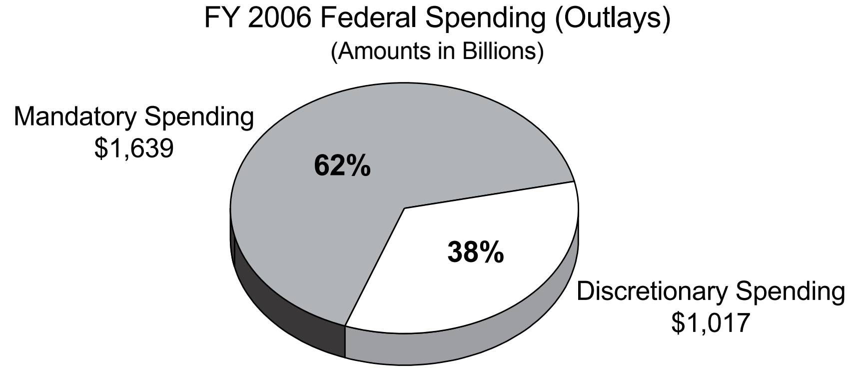


Figure 5. – FY 2006 Federal Spending.

The BEA1990 established annual caps on discretionary spending to help achieve its deficit reduction goals.[76] Under a spending cap, the Congress must adjust the spending for any or all programs subject to the cap so that total spending for those programs does not exceed the annual cap.

Within the discretionary category, spending for certain programs has been protected by budgetary "firewalls." These firewalls take the form of separate spending caps for the protected programs that prevent the programs from being reduced in order to increase spending for other discretionary programs. Consequently, any reductions in these firewall programs for a particular year would go towards deficit reduction.

The TEA-21 created just such a firewall between highway spending, transit spending, and other domestic discretionary spending for FYs 1999 through 2003. Therefore, for FY 1999, there were five separate categories for discretionary spending: defense, violent crime reduction, highways, mass transit, and all other discretionary programs (lumped into a "non-defense spending" category).[77] The broad discretionary caps in the BEA 1990 ended with 2002, but SAFETEA-LU established new firewalls for FYs 2005 through 2009 for the highway and mass transit categories as was done under TEA-21.[78]

In addition to the firewalls, TEA-21 and SAFETEA-LU each provided a second level of protection for the guaranteed level of funding in the form of a point of order included in the Rules of the House of Representatives. Section 8003 of SAFETEA-LU, specified the amount of discretionary funding that is protected by the firewall. Section 8004 amends the House Rules to specify that it is out of order to consider a bill, joint resolution, amendment, or conference report that would result in funding at a lower level than that set in section 8003 of SAFETEA-LU, as adjusted.[79]

As shown in Table 3, of the amounts authorized for surface transportation programs in the SAFETEA-LU, $244 billion is guaranteed to be available for obligation during the 5-year period covered by the act—$199 billion for highway and highway safety programs (which includes the discretionary spending firewall amount and mandatory spending) and $45 billion for transit programs. The highway firewall protects the obligation limitation for Federal-aid Highways, and the contract authority from the Highway Trust Fund for the programs of the Federal Motor Carrier Safety Administration and the National Highway Traffic Safety Administration. Funding for the Emergency Relief program and a portion of the Equity Bonus program ($639 million per year) are mandatory spending. Authorizations contained in the SAFETEA-LU for fiscal years 2005-2009 in excess of the guaranteed funding levels may be made available by Congress through the annual appropriations process.

Table 3. – Guaranteed Funding (Amounts in Millions of Dollars).

	2005	2006	2007	2008	2009	Total
Discretionary Spending "Firewalls":						
Highway Category (Sec. 8003(a)):						
FAH Obligation Limitation	$34,423	$36,032	$38,244	$39,585	$41,200	$189,484
Motor Carrier Safety	$443	$495	$517	$528	$541	$2,524
NHTSA	$299	$693	$700	$711	$729	$3,132
Subtotal	$35,165	$37,220	$39,461	$40,824	$42,470	$195,140
Transit Category (Sec. 8003(b)):	$7,646	$8,623	$8,975	$9,731	$10,338	$45,313
Total, Discretionary Firewalls	$42,811	$45,843	$48,436	$50,555	$52,808	$240,453
Mandatory Spending:						
Emergency Relief	$100	$100	$100	$100	$100	$500
Equity Bonus	$639	$639	$639	$639	$639	$3,195
Subtotal	$739	$739	$739	$739	$739	$3,695
TOTAL, Guaranteed Funding	**$43,550**	**$46,582**	**$49,175**	**$51,294**	**$53,547**	**$244,148**

Revenue Aligned Budget Authority

The firewall amount for the highway category was set based on assumptions about future receipts to the Highway Account of the HTF. SAFETEA-LU provides that, beginning in 2007, when newer projections of receipts and actual receipts become available, the highway category firewall is adjusted accordingly. To smooth out the effects of any adjustments, the calculated adjustment will be split over two years. When the firewall amount is adjusted, either upward or downward, equal adjustments are to be made to the Federal-aid Highways (FAH) obligation limitation and authorizations. The adjustment of authorizations is called Revenue Aligned Budget Authority (RABA), but this term is often used to refer to the entire adjustment process.[80] While the adjustment can be either positive or negative, no negative adjustment will be made in a fiscal year if, as of October 1 of that year, the balance in the Highway Account is more than $6 billion.

Section 8002 of the SAFETEA-LU contains projections of receipts into the Highway Account of the HTF for FYs 2005 through 2009, made at the time the legislation was developed. As part of the FY 2007 budget submission, the SAFETEA-LU requires the Administration to compare actual FY 2005 Highway Account receipts with the SAFETEA-LU FY 2005 projection, and to compare revised Department of the Treasury projections of FY 2006 Highway Account receipts with the SAFETEA-LUFY 2006 projection. The sum of these differences is $1,684,508,333 and half of this amount ($842,254,167) will be the RABA funding level for FY 2007. (The other half will be combined with half of the calculation made for FY 2008 to become the FY 2008 RABA.) Thus, under the guaranteed funding provisions, the FY 2007 FAH obligation limitation would be increased from the amount set in the SAFETEA-LU ($38,244,210,516, see Table 3) to $39,086,464,683. This would cause the firewall for the highway category, which is composed of the obligation limitations for Federal-aid Highways, Motor Carrier Safety, and National Highway Traffic Safety Administration (NHTSA), to be increased from \$39,460,710,516 (see Table 3) to \$41,041,964,683. When budgets are developed for each of fiscal years 2008 and 2009, a similar computation—looking at actual receipts from 2 years prior to the budget year plus revised receipt projections for the current year—will occur.

The Highway Trust Fund

The previous sections have only peripherally mentioned the Highway Trust Fund (HTF). This has been intentional. The fact that the HTF is the source of funds for the Federal-Aid Highway Program (FAHP) has a limited impact on the financial procedures under which the highway program operates. The use of the Trust Fund provides two direct benefits to the highway program: (1) It allows the program to operate with contract authority through the 1974 Budget Act, and (2) it provides the opportunity for revenue aligned budget authority (see discussion under "Appropriations"). The following section briefly describes the operation of the HTF.

History

Before 1956, the year Interstate System authorizations were greatly increased, the HTF did not exist. Cash to liquidate previously incurred obligations for the FAHP came from the General Fund of the Treasury. Budget authority came through the granting of contract authority, as it does now. Although taxes on motor fuels and automobile products were in existence, they were not linked to funding for highways. At the time, financing for the highway program and revenues from automobile and related products were included under the public finance principle of "spend where you must, and get the money where you can." Aside from this, the program operated in terms of authorizations, obligations, appropriations, and reimbursements—much as it does now.

The Federal-Aid Highway Act of 1956, coupled with the Highway Revenue Act of that same year, increased authorizations for the Federal-aid Primary and Secondary Systems, authorized significant funding of the Interstate System, and established the HTF as a mechanism for financing the accelerated highway program.[81] To finance the increased authorizations, the Revenue Act increased some of the existing highway-related taxes, established new ones, and provided that most of the revenues from these taxes should be credited to the HTF. Revenues accruing to the HTF were dedicated to the financing of Federal-aid highways. The passage of the Highway Revenue Act of 1956 also increased the political acceptability of the additions in the user taxes and provided dedicated revenues to finance the larger highway program.

The imposition of the taxes that are dedicated to the HTF, as well as the authority to place the taxes in the HTF and to expend from the HTF all have expiration dates which must be extended periodically. The 1956 Highway Revenue Act provided for the imposition of the taxes that support the HTF through June 30, 1972, and the transfer of such taxes to the HTF and the payment of refunds through June 30, 1973. Expenditures from the HTF were authorized through June 30, 1972. The life of the HTF has been extended several times by subsequent legislation, most recently by the SAFETEA-LU, which extended the imposition of taxes and the transfer of the taxes to the HTF through September 30, 2011[82]. Payment of fuel tax refunds is extended through June 30, 2012. The SAFETEA-LU authorized expenditures from the HTF through September 30, 2009.

User Taxes

The HTF was created as a user-supported fund. Simply, the revenues of the HTF were intended for financing highways, with the taxes dedicated to the HTF paid by the users of highways. This principle is still in effect, but the tax structure has changed since 1956. Major revisions occurred as a result of the Surface Transportation Assistance Act (STAA) of 1982 and the Deficit Reduction Act of 1984. Those acts increased the motor-fuel taxes for the first time since 1959. The 1982 STAA also established a special Mass Transit Account in the HTF to receive part of the motor-fuel tax.[83]

Then, another increase of 5 cents per gallon (bringing the Federal gasoline tax to 14.1 cents per gallon) was enacted as part of the Omnibus Budget Reconciliation Act of 1990 (OBRA 90). That increase was effective December 1, 1990. The act also established a “first” for the HTF. One-half of the revenues derived from the 5-cent increase went to the General Fund of the Treasury for deficit reduction. Before that time, virtually *all* revenues from Federal motor-fuel (and other highway-related Federal excise taxes) had been credited entirely to the HTF.[84] The General Fund portion of the tax was imposed on a temporary basis and was scheduled to expire on October 1, 1995.

Another fuel tax increase of 4.3 cents per gallon was enacted effective October 1, 1993, by the Omnibus Budget Reconciliation Act of 1993 (OBRA 93). The increase brought the gasoline tax to 18.4 cents per gallon and the entire amount of the increase was directed to the General Fund of the Treasury for deficit reduction. This tax increment has no expiration date. The legislation also provided that the temporary General Fund fuel tax imposed by OBRA 90 would be extended and that it would be directed to the HTF effective October 1, 1995, except in the case of certain alcohol fuels.[85]

The Taxpayer Relief Act of 1997 redirected the 4.3-cents General Fund tax to the HTF effective October 1, 1997.

The Surface Transportation Extension Act of 2004, Part V (STEA 04-V) redirected to the Highway Trust Fund the portion of the gasohol tax that had continued to be deposited in the General Fund under the provisions of OBRA 90 and OBRA 93. This redirection was effective for the period October 1, 2003 through September 30, 2004.

The American Jobs Creation Act of 2004 (AJCA 04) made the STEA 04-V redirection permanent. It also eliminated gasohol’s partial exemption from the gasoline tax, enacted as an incentive to alternatives to petroleum fuels in 1979, providing instead a credit to be paid from the General Fund.

The SAFETEA-LU extended the HTF taxes through September 30, 2011, thus extending the fiscal “life” of the HTF.

Table 4 shows the types of taxes placed in the HTF and the rates currently in effect. Appendix L shows the history of the highway fuel tax rates since the creation of the HTF.

Table 4. – User Fee Structure.

Tax Type	Tax Rate
Gasoline and gasohol	18.4 cents per gallon
Diesel	24.4 cents per gallon
Special Fuels:	
General rate	18.4 cents per gallon
Liquefied petroleum gas	18.3 cents per gallon
Liquefied natural gas	24.3 cents per gallon
M85 (from natural gas)	9.25 cents per gallon
Compressed natural gas	18.3 cents per 126.67 cubic feet
Tires: (maximum rated load capacity)	
0-3,500 pounds	No Tax
Over 3,500 pounds	9.45 cents per each 10 pounds in excess of 3,500
Truck and Trailer Sales	12 percent of retailer's sales price for tractors and trucks over 33,000 pounds gross vehicle weight (GVW) and trailers over 26,000 pounds GVW
Heavy Vehicle Use	Annual tax: Trucks 55,000 pounds and over GVW, \$100 plus \$22 for each 1,000 pounds (or fraction thereof) in excess of 55,000 pounds (maximum tax of \$550)

The HTF has additional sources of revenue. Since October 30, 1984, the proceeds from fines and penalties imposed for violation of motor carrier safety requirements are deposited in the Highway Account of the HTF.[86] Effective October 22, 2004, the proceeds of certain penalties imposed by the Internal Revenue Code related to highway-user taxes are deposited in the Highway Account of the HTF. [87]

Collection

Most of the excise taxes credited to the HTF are not collected by the Federal government directly from the consumer. They are, instead, paid to the Internal Revenue Service by the producer or importer of the taxable product (except in the cases of the tax on trucks and trailers, which is paid by the retailer, and the heavy vehicle use tax, which is paid by the heavy vehicle owner). As a result, most of the Federal fuel taxes come from a handful of States, those where major oil companies are headquartered, and most tire taxes are paid from Ohio, the home of the U.S. tire industry. Of course, these taxes become part of the price of the product and are ultimately paid by the highway user.

User taxes are deposited in the General Fund of the Treasury and the amounts equivalent to these taxes are then transferred to the HTF. Transfers are required to be made at least monthly on the basis of estimates by the Secretary of the Treasury and later adjusted on the basis of actual tax receipts.[88] Amounts in the HTF in excess of current expenditure requirements are invested in public debt securities. Until October 1, 1998, the securities were interest-bearing and interest from the securities was credited to the fund. Since that time, the HTF balance has been invested in non-interest-bearing securities.[89]

Since there is considerable interest in the amount of contributions to the HTF made by each State, estimates are made of the amount of taxes paid by the highway users of each State on the basis of data reported by State motor-fuel tax agencies. Highway users in some States pay more in user taxes than those States receive back in Federal-aid highway apportionments and allocations. In an effort to compensate for this, the SAFETEA-LU included a provision, called the Equity Bonus, which distributes additional funds to the States. This provision is described in detail in the "Financing Procedures" section of this book.

Pay-as-You-Go Fund

Another important characteristic of the HTF is that it was set up as a pay-as-you-go fund. When the creation of the HTF was under consideration, there were concerns that the proceeds of the taxes dedicated to the HTF might prove insufficient to make reimbursements when claims were made. The bill under consideration was amended to require a comparison of current and future resources with existing and projected unpaid authorizations and to adjust the amounts apportioned for highways if the two are out of balance. This comparison is referred to as the Byrd Amendment or the Byrd Test.[90] The exact requirements of the Byrd Test have changed several times since it was established in 1956, most recently in SAFETEA-LU.[91]

Under the Byrd Amendment, as modified by the SAFETEA-LU, unfunded authorizations (unpaid commitments in excess of amounts available in the Highway Account of the HTF) at the end of the fiscal year in which the apportionment is to be made must be less than the revenues anticipated to be earned in the following 48- month period. For example, to determine the status of FY 2006, at the close of FY 2005 the Secretary of the Treasury must determine if the balance of the Highway Account of the HTF as of September 30, 2005, plus the anticipated income in FYs 2006 through 2010, will be greater than the sum of the authorizations to be distributed for FY 2006 and the authorizations distributed, but not paid, as of September 30, 2005. If a shortfall in funds is projected, then all Highway Account funded program apportionments for FY 2006 would be reduced proportionately.[92]

In the HTF's history, the Byrd Amendment has been triggered twice, resulting in the reduction in the Interstate System construction apportionments for FY 1961 and all Highway Account apportionments for FY 2004. No Byrd Amendment reductions are anticipated for the foreseeable future.[93] The Mass Transit Account is subject to the same, but separately calculated, test known as the Rostenkowski test.

■ **Expenditures.** As stated before, the HTF exists to support the highway, highway and motor carrier safety, intermodal and transit programs. Even though the programs do, for the most part, have contract authority, the cash to reimburse the States for the Federal share of project costs still must be released from the HTF by an appropriations act. In other words, the Federal government does not have the ability to pay the State without an appropriation of cash from the HTF. Any amounts that have been appropriated but not used during the year can be carried over for use in the next fiscal year. Conversely, legislation providing additional liquidating cash is enacted when the amounts appropriated in the annual DOT Appropriations Act are insufficient.[94]

■ **Transfers.** Taxes on gasoline and special fuels used in motorboats are dedicated to the Sport Fish Restoration and Boating Trust Fund[95] with $1 million of that amount annually transferred to the Land and Water Conservation Fund. Tax receipts from gasoline used in small engines, such as lawnmowers and chain saws, are also dedicated to the Sport Fish Restoration and Boating Trust Fund. As such uses cannot be determined from the fuel tax returns filed by taxpayers (typically oil companies), the receipts are initially deposited in the HTF along with the highway fuel taxes. The Treasury Department estimates the portion of the taxes deposited in the HTF derived from such uses and transfers the tax receipts to the appropriate Trust Fund.[96]

■ **Refunds and credits.** In some cases, the motor-fuel tax has already been paid by the producer/distributor or retailer on motor fuel that will ultimately be used by an exempt user or for an exempt purpose. In most such cases, the end user purchases fuel at a price that includes the tax and must apply for a refund of the tax. In other cases, for example sales of diesel fuel to State and local governments, the retailer (the ultimate vendor) sells the fuel to the end user at a price excluding the tax and applies for the refund. Refunds and credits amounting to $1,007 million were paid from the HTF in FY 2005.

Balance of the Highway Trust Fund

The balance of the HTF has long been a point of controversy. Because of the nature of a reimbursable program like the FAHP, there may be cash in the fund that is not needed for immediate use. It is important to understand that this is not necessarily excess cash but will be needed to reimburse the States as vouchers are submitted.

Perhaps a comparison of the HTF operation to a personal financial situation can help clarify this point. If a person has a checking account balance of $500, that amount cannot be considered excess if he or she has at the same time outstanding monthly bills of $1,000, but neither is the account in a deficit situation if he or she will receive $1,200 in a paycheck at the end of the month.

The HTF operates in the same manner. Although there was a cash balance of $10.6 billion in the Highway Account of the HTF at the close of FY 2005 (see Table 5), there were also, at the same time, unpaid commitments (authorizations already apportioned/allocated to the States or others) against the HTF totaling $79.8 billion. Therefore, the $10.6 billion balance was not excess cash.

Table 5. – Operation of the Highway Account (Highway Trust Fund)
(Amounts in Millions of Dollars)

	Highway Account	Mass Transit Account	Total
Opening balance, 10/1/2004	10,805	3,776	14,581
Tax Receipts	34,156	5,163	39,319
Less:			
Transfers to other funds	383	53	435
Tax refunds	880	126	1,007
Net tax receipts	32,893	4,984	37,877
Fines, penalties, and other receipts	15	0	15
Expenditures	33,121	6,810	39,931
Closing balance, 9/30/2005	10,502	1,950	12,542

The difference between commitments and income through the termination of the fund is the amount that truly reflects the status of the fund and must be considered when any new commitments (additional authorizations) are proposed. It also must be recognized that this status is based on revenue projections that can change from time to time. The projected commitments can also change, either by legislation authorizing additional funds or when programs, such as the Equity Bonus, exceed estimated authorizations.

Appendices

Appendix A: Glossary

Allocation. An administrative distribution of funds for programs that do not have statutory distribution formulas.

Apportionment. The distribution of funds as prescribed by a statutory formula.

Appropriated Budget Authority (ABA). A form of *Budget Authority* that requires both an authorization act *and* an appropriations act before any funds can be obligated.

Appropriations Act. Action of a legislative body that makes funds available for expenditure with specific limitations as to amount, purpose, and duration. In most cases, it permits money previously authorized to be obligated and payments made, but for the highway program operating under contract authority, the appropriations act specifies amounts of funds that Congress will make available for the fiscal year to liquidate obligations.

Authorization Act. Basic substantive legislation that establishes or continues Federal programs or agencies and establishes an upper limit on the amount of funds for the program(s). The current authorization act for surface transportation programs is the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).

Budget Authority. Empowerment by Congress that allows Federal agencies to incur obligations that will result in the outlay of funds. This empowerment is generally in the form of appropriations. However, for most of the highway programs, it is in the form of *contract authority*.

Budget Resolution. A concurrent resolution passed by Congress presenting the Congressional Budget for each of the succeeding 5 years. A concurrent resolution does not require the signature of the President.

Contract Authority (CA). A form of *Budget Authority* that permits obligations to be made in advance of appropriations. Most of the programs under the *Federal-Aid Highway Program* operate under Contract Authority.

Expenditures. See *Outlays*.

Federal-aid Highway Program (FAHP). An umbrella term, not defined in law, which in general refers to most of the Federal programs providing highway funds to the States. When used in a budgetary context, FAHP specifically refers to highway programs financed by contract authority out of the Highway Account of the Highway Trust Fund (HTF), plus any HTF supplemental appropriations for the Emergency Relief Program. Such authorizations are contained in titles I and V of SAFETEA-LU and in 23 U.S.C. 125, as well as in acts providing supplemental appropriations.

Federal Highway Administration (FHWA). The Federal agency within the U.S. Department of Transportation responsible for administering the Federal-aid Highway Program.

Appendix A (continued)

Firewall. A budgetary device separating certain Federal spending within the discretionary spending category from other spending in the discretionary category. Spending for programs with firewalls may not be reduced in order to increase spending for other discretionary programs. The SAFETEA-LU establishes, for fiscal years 2005-2009, a firewall to protect highway and highway safety spending and a firewall to protect transit spending.

Fiscal Year (FY). The accounting period for the budget. The Federal fiscal year is from October 1 until September 30. The fiscal year is designated by the calendar year in which it ends. For example, FY 2006 runs from October 1, 2005, until September 30, 2006.

Guaranteed Funding. Highway, highway safety, and transit spending protected by *firewalls*, plus highway funds that are classified as mandatory spending, i.e., exempt from the *obligation limitation*.

Highway Trust Fund (HTF). An account established by law to hold Federal highway-user taxes that are dedicated for highway and transit related purposes. The HTF has two accounts: the Highway Account, and the Mass Transit Account.

Obligational Authority (OA). The total amount of funds that may be obligated in a year. For the Federal-aid Highway Program this is comprised of the *obligation limitation* amount plus amounts for programs exempt from the limitation.

Obligation Ceiling. Identical to *obligation limitation*.

Obligation Limitation. A restriction, or "ceiling" on the amount of Federal assistance that may be promised (obligated) during a specified time period. This is a statutory budgetary control that does not affect the apportionment or allocation of funds. Rather, it controls the rate at which these funds may be used.

Obligation. The Federal government's legal commitment (promise) to pay or reimburse the States or other entities for the Federal share of a project's eligible costs.

Outlays. Actual cash (or electronic transfer) payments made to the States or other entities. Outlays are provided as reimbursement for the Federal share for approved highway program activities.

Penalty. An action taken by Federal agencies when the grant recipient does not comply with provisions of the law. For the highway program the imposition of penalties, which are defined in law, may prevent a State from using or receiving its full apportionment or may force a transfer from one program to another.

President's Budget. A document submitted annually (due by the first Monday in February) by the President to Congress. It sets forth the Administration's recommendations for the Federal budget for the upcoming fiscal year.

Rescission. Legislation enacted by Congress that cancels the availability of budget authority previously enacted before the authority would otherwise expire.

Revenue Aligned Budget Authority (RABA). The adjustment in funding made annually to the highway program as a result of the adjustment in the *firewall* level for highways. The firewall level is adjusted to reflect revised receipt estimates for the Highway Account of the Highway Trust Fund. Then, adjustments—equal to the firewall adjustment—are made to Federal-aid highway authorizations and obligation limitation for the fiscal year. Under SAFETEA-LU, the first adjustment is for FY 2007.

Sliding Scale. The normal Federal share of 80% for non-Interstate and 90% for Interstate is adjusted upward to no more than 95%, based on a sliding scale, for States with large amounts of Federal lands (over 5% of the total area of the State)

State. As defined in chapter 1 of Title 23 of the United States Code, any of the 50 States, comprising the United States, plus the District of Columbia and the Commonwealth of Puerto Rico. However, for some purposes (e.g., highway safety programs under 23 U.S.C. 402), the term may also include the Territories (the U.S. Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands) and the Secretary of the Interior (for Indian Reservations). For the purposes of apportioning funds under sections 104, 105, 130, 144, and 206 of Title 23, United States Code, and section 1404 of SAFETEA-LU (relating to the safe routes to school program), the term "State" is defined by section 1120(c) of the SAFETEA-LU to mean any of the 50 States and the District of Columbia.

For additional definitions, see *A Glossary of Terms Used in the Federal Budget Process*, Government Accountability Office, September 2005. Also see Section 101 of Title 23, U.S.C.

Appendix B: Highway Authorizations[1]

PROGRAM	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	TOTAL
Title I – Federal-aid Highways						
Interstate Maintenance	4,883,759,623	4,960,788,917	5,039,058,556	5,118,588,513	5,199,399,081	25,201,594,690
National Highway System	5,911,200,104	6,005,256,569	6,110,827,556	6,207,937,450	6,306,611,031	30,541,832,710
Bridge Program	4,187,708,821	4,253,530,131	4,320,411,313	4,388,369,431	4,457,421,829	21,607,441,525
Surface Transportation Program	6,860,096,662	6,269,833,394	6,370,469,775	6,472,726,628	6,576,630,046	32,549,756,505
Congestion Mitigation and Air Quality Improvement Program	1,667,255,304	1,694,101,866	1,721,380,718	1,749,098,821	1,777,263,247	8,609,099,956
Highway Safety Improvement Program	—	1,235,810,000	1,255,709,322	1,275,929,067	1,296,474,396	5,063,922,785
Appalachian Development Highway System	470,000,000	470,000,000	470,000,000	470,000,000	470,000,000	2,350,000,000
Recreational Trails Program	60,000,000	70,000,000	75,000,000	80,000,000	85,000,000	370,000,000
Indian Reservation Roads	300,000,000	330,000,000	370,000,000	410,000,000	450,000,000	1,860,000,000
Park Roads and Parkways	180,000,000	195,000,000	210,000,000	225,000,000	240,000,000	1,050,000,000
Refuge Roads	29,000,000	29,000,000	29,000,000	29,000,000	29,000,000	145,000,000
Public Lands Highways	260,000,000	280,000,000	280,000,000	290,000,000	300,000,000	1,410,000,000
National Corridor Infrastructure Improvement Program	194,800,000	389,600,000	487,000,000	487,000,000	389,600,000	1,948,000,000
Coordinated Border Infrastructure Program	123,000,000	145,000,000	165,000,000	190,000,000	210,000,000	833,000,000
National Scenic Byways Program	26,500,000	30,000,000	35,000,000	40,000,000	43,500,000	175,000,000
Construction of Ferry Boats and Ferry Terminal Facilities	38,000,000	55,000,000	60,000,000	65,000,000	67,000,000	285,000,000
Puerto Rico Highway Program	115,000,000	120,000,000	135,000,000	145,000,000	150,000,000	665,000,000
Projects of National and Regional Significance	177,900,000	355,800,000	444,750,000	444,750,000	355,800,000	1,779,000,000
High Priority Projects Program	2,966,400,000	2,966,400,000	2,966,400,000	2,966,400,000	2,966,400,000	14,832,000,000
Safe Routes to School Programs	54,000,000	100,000,000	125,000,000	150,000,000	183,000,000	612,000,000
Deployment of Magnetic Levitation Transportation Projects (STA)	—	15,000,000	15,000,000	30,000,000	30,000,000	90,000,000
National Corridor Planning and Development and Coordinated Border Infrastructure Programs	140,000,000	—	—	—	—	140,000,000
Highways for LIFE	—	15,000,000	20,000,000	20,000,000	20,000,000	75,000,000
Highway Use Tax Evasion Program	5,000,000	44,800,000	53,300,000	12,000,000	12,000,000	127,100,000
Administrative Expenses	353,024,000	370,613,540	389,079,500	408,465,500	423,717,640	1,944,900,180
Operation Lifesaver	—	560,000	560,000	560,000	560,000	2,240,000
Rail-Highway Crossing Hazard Elimination in High-Speed Rail Corridors	—	7,250,000	10,000,000	12,500,000	15,000,000	44,750,000
Equity Bonus Program[2]	7,427,696,192	6,872,700,073	8,326,692,870	9,175,197,452	9,093,265,575	40,895,552,163

Appendix B (continued)

PROGRAM	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	TOTAL
Revenue Aligned Budget Authority	—	—	ssambn	ssambn	ssambn	ssambn
Emergency Relief When Allocations Exceed $100 Million (GF)	ssambn	ssambn	ssambn	ssambn	ssambn	ssambn
Transportation, Community, and System Preservation Program	25,000,000	61,250,000	61,250,000	61,250,000	61,250,000	270,000,000
Indian Reservation Road Bridges	14,000,000	14,000,000	14,000,000	14,000,000	14,000,000	70,000,000
Projects on High Priority Corridors on the National Highway System (GF)	ssambn	ssambn	ssambn	ssambn	ssambn	ssambn
Truck Parking Facilities	—	6,250,000	6,250,000	6,250,000	6,250,000	25,000,000
Freight Intermodal Distribution Pilot Grant Program	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	30,000,000
Delta Region Transportation Development Program	—	10,000,000	10,000,000	10,000,000	10,000,000	40,000,000
Toll Facilities Workplace Safety Study	—	500,000	—	—	—	500,000
Roadway Safety Improvements for Older Drivers and Pedestrians (GF)	ssambn	ssambn	ssambn	ssambn	ssambn	ssambn
Safety Incentive Grants for Use of Seat Belts	112,000,000	—	—	—	—	112,000,000
Safety Incentives to Prevent Operation of Motor Vehicles by Intoxicated Persons	110,000,000	—	—	—	—	110,000,000
Work Zone Safety Grants	—	5,000,000	5,000,000	5,000,000	5,000,000	20,000,000
Nation Work Zone Safety Clearinghouse	—	1,000,000	1,000,000	1,000,000	1,000,000	4,000,000
Road Safety	—	500,000	500,000	500,000	500,000	2,000,000
Bicycle And Pedestrian Safety Grants	300,000	500,000	500,000	500,000	500,000	2,300,000
Transportation Infrastructure Finance and Innovation Act Amendments	122,000,000	122,000,000	122,000,000	122,000,000	122,000,000	610,000,000
Value Pricing Pilot Program	11,000,000	12,000,000	12,000,000	12,000,000	12,000,000	59,000,000
Construction of Ferry Boats and Ferry Terminal Facilities (GF)	—	ssambn	ssambn	ssambn	ssambn	ssambn
America's Byways Resource Center	1,500,000	3,000,000	3,000,000	3,000,000	3,000,000	13,500,000
National Historic Covered Bridge Preservation Program	—	10,000,000	10,000,000	10,000,000	10,000,000	40,000,000
Additional Authorization of Contract Authority for States with Indian Reservations	1,800,000	1,800,000	1,800,000	1,800,000	1,800,000	9,000,000
Nonmotorized Transportation Pilot Program	—	25,000,000	25,000,000	25,000,000	25,000,000	100,000,000

Appendix B (continued)

PROGRAM	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	TOTAL
Grant Program to Prohibit Racial Profiling	7,500,000	7,500,000	7,500,000	7,500,000	7,500,000	37,500,000
Pavement Marking Systems Demonstration Projects	—	1,000,000	1,000,000	1,000,000	1,000,000	4,000,000
National Surface Transportation Policy and Revenue Study Commission	—	1,400,000	1,400,000	—	—	2,800,000
Road User Fees Field Test	—	2,000,000	3,500,000	3,500,000	3,500,000	12,500,000
Transportation Assets and Needs of the Delta Region	500,000	500,000	-	—	—	1,000,000
Transportation Projects	255,523,600	511,047,200	638,809,000	638,809,000	511,047,200	2,555,236,000
Going-to-the-Sun Road (STA)[3]	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	50,000,000
Great Lakes ITS Implementation	—	2,000,000	2,000,000	2,000,000	3,000,000	9,000,000
Transportation Construction and Remediation, Ottawa Co., OK	—	10,000,000	—	—	—	10,000,000
Infrastructure Awareness	1,500,000	1,450,000	—	—	—	2,950,000
Gateway Rural Improvement Pilot Project (GF)	ssambn	ssambn	ssambn	ssambn	ssambn	ssambn
Bonding Assistance Program (GF)	ssambn	ssambn	ssambn	ssambn	ssambn	ssambn
Projects under Section 1301 and 1302 (GF)			No Year or Amount Specified			
Denali Access System Program	—	15,000,000	15,000,000	15,000,000	15,000,000	60,000,000
I-95/Contee Road Interchange Study	—	1,000,000	—	—	—	1,000,000
Multimodal Facility Improvements	—	5,000,000	5,000,000	5,000,000	5,000,000	20,000,000
Total – Title I	**37,108,964,306**	**38,127,741,690**	**40,447,148,610**	**41,824,631,862**	**41,981,990,045**	**199,490,476,514**
Title V – Transportation Research						
Surface Transportation Research, Development, and Deployment Program	196,400,000	196,400,000	196,400,000	196,400,000	196,400,000	982,000,000
Training and Education	26,700,000	26,700,000	26,700,000	26,700,000	26,700,000	133,500,000
Bureau of Transportation Statistics	27,000,000	27,000,000	27,000,000	27,000,000	27,000,000	135,000,000
University Transportation Research	69,700,000	69,700,000	69,700,000	69,700,000	69,700,000	348,500,000
Intelligent Transportation Systems Research	110,000,000	110,000,000	110,000,000	110,000,000	110,000,000	550,000,000
ITS Deployment	122,000,000	—	—	—	—	122,000,000
Transportation Technology Innovation and Demonstration Program (GF)	ssambn	ssambn	ssambn	ssambn	ssambn	ssambn
Total – Title V	**551,800,000**	**429,800,000**	**429,800,000**	**429,800,000**	**429,800,000**	**2,271,000,000**

Appendix B (continued)

PROGRAM	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	TOTAL
Title X—Miscellaneous Provisions						
Rescission of Unobligated Balances of Highway Contract Authority[4]	—	—	—	—	-8,543,000,000	-8,543,000,000
Grand Total—Highway Authorizations	**37,660,764,306**	**38,557,541,690**	**40,876,948,610**	**42,254,431,862**	**33,868,790,045**	**193,218,476,514**
Recap by Category:						
Federal-aid Highway Program (CA from HA-HTF)	37,650,764,306	38,532,541,690	40,851,948,610	42,214,431,862	33,828,790,045	193,078,476,514
Subject to Appropriation from HA-HTF	10,000,000	25,000,000	25,000,000	40,000,000	40,000,000	140,000,000
Subject to Appropriation from GF	ssambn	ssambn	ssambn	ssambn	ssambn	ssambn
Total Highway Authorizations	**37,660,764,306**	**38,557,541,690**	**40,876,948,610**	**42,254,431,862**	**33,868,790,045**	**193,218,476,514**

[1]All amounts shown are contract authority from the Highway Account of the Highway Trust Fund unless otherwise noted.
Abbreviations used in this Appendix are as follows:

STA – Subject to appropriation

CA – Contract authority

HA-HTF – Highway Account of the Highway Trust Fund.

GF – General Fund of the Treasury

ssambn – Such sums as may be necessary to carry out the provision of law.

[2]Such sums as may be necessary to carry out the Equity Bonus provision are authorized. The amounts shown are estimates made at the time of enactment of SAFETEA-LU and are subject to change.

[3]SAFETEA-LU authorized the amounts shown, subject to appropriation. This was amended by the Pension Protection Act of 2006 (P.L. 109-280), which substituted an authorization of $16,666,666 in contract authority for each of fiscal years 2007 through 2009.

[4]SAFETEA-LU included the rescission shown. This was amended by the Pension Protection Act of 2006 (P.L. 109-280), which increased the amount of the rescission to $8,593,000,000.

Appendix C: Deductions (Takedowns) from Apportioned Programs

Percentage Deductions

TAKEDOWN FROM	FOR	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Interstate Maintenance Program	Metropolitan Planning	1.25%	1.25%	1.25%	1.25%	1.25%
National Highway System	Metropolitan Planning	1.25%	1.25%	1.25%	1.25%	1.25%
Highway Bridge Replacement and Rehabilitation Program	Metropolitan Planning	1.25%	1.25%	1.25%	1.25%	1.25%
Surface Transportation Program	Metropolitan Planning	1.25%	1.25%	1.25%	1.25%	1.25%
Congestion Mitigation and Air Quality Improvement Program	Metropolitan Planning	1.25%	1.25%	1.25%	1.25%	1.25%

Dollar Deductions

(Amounts in Millions of Dollars)

TAKEDOWN FROM	FOR	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Interstate Maintenance Program	Interstate Maintenance Discretionary	100.000	100.000	100.000	100.000	100.000
National Highway System	Territorial Highways	40.000	40.000	50.000	50.000	50.000
	Alaska Highway	30.000	30.000	30.000	30.000	30.000
Highway Bridge Program	Bridge Discretionary	100.000	—	—	—	—
	Bridge Setaside	—	100.000	100.000	100.000	100.000
Surface Transportation Program	Operation Lifesaver*	0.560	—	—	—	—
	Rail-Highway Crossing Hazard Elimination in High-Speed Rail Corridors*	5.250	—	—	—	—
	DBE Training	10.000	10.000	10.000	10.000	10.000
	On-the-Job Training Supportive Services	10.000	10.000	10.000	10.000	10.000
Recreational Trails Program	Research, Technical Assistance and Training	0.840	0.840	0.840	0.840	0.840
Safe Routes to School Program	Administrative Expenses, including Task Force and Clearinghouse	3.000	3.000	3.000	3.000	3.000
Highway Safety Improvement Program	Elimination of Hazards and Installation of Protective Devices at Railway-Highway Crossings	NA	220.000	220.000	220.000	220.000

*Operation Lifesaver and Rail-Highway Crossing Hazard Elimination in High-Speed Rail Corridors funded by separate authorizations rather than takedowns after FY 2005.

Appendix D: Apportionment Formulas

PROGRAM	FACTORS	WEIGHT	STATUTE[1]	MINIMUM APPORTIONMENT
Interstate Maintenance Program	Interstate System lane miles open to traffic	33-1/3%	104(b)(4)	½ percent of Interstate Maintenance and National Highway System apportionments combined
	Vehicle miles traveled on Interstate System routes open to traffic	33-1/3%		
	Annual contributions to the Highway Account of the Highway Trust Fund attributable to commercial vehicles	33-1/3%		
National Highway System	Lane miles on principal arterial routes (excluding the Interstate System)	25%	104(b)(1)	½ percent of Interstate Maintenance and National Highway System apportionments combined
	Vehicle miles traveled on principal arterial routes (excluding the Interstate System)	35%		
	Diesel fuel used on highways	30%		
	Total lane miles on principal arterial highways divided by the State's total population	10%		
Surface Transportation Program	Total lane miles of Federal-aid highways	25%	104(b)(3)	½ percent
	Total vehicle miles traveled on Federal-aid highways	40%		
	Estimated tax payments attributable to highway users paid into the Highway Account of the Highway Trust Fund	35%		
Highway Bridge Replacement and Rehabilitation Program	Relative share of total cost to repair or replace deficient highway bridges	100%	144(e)	¼ percent (10 percent maximum)
Congestion Mitigation and Air Quality Improvement Program	Weighted non-attainment and maintenance area population	100%	104(b)(2)	½ percent
Highway Safety Improvement Program	Total lane miles of Federal-aid highways	33-1/3%	104(b)(5)	1/2 percent
	Total vehicle miles traveled on Federal-aid highways	33-1/3%		
	Number of fatalities on the Federal-aid system (the National Highway System)	33-1/3%		
Railway-Highway Crossings	Formula used for Surface Transportation Program	50%	130(f)	1/2 percent
	Total number of public railway-highway crossings	50%		
Safe Routes to School Program	Total school enrollment in primary and middle schools (grades K-8)	100%	1404 of SAFETEA-LU	$1 million
Recreational Trails Program	Equal shares to each eligible State	50%	104(h)	None
	Nonhighway recreational fuel use during the preceding year	50%		
Coordinated Border Infrastructure Program	Incoming commercial trucks passing through land border ports of entry (POE)	20%	1303 of SAFETEA-LU	None
	Incoming personal motor vehicles and incoming buses passing through land border POEs	30%		
	Total weight of incoming cargo by commercial trucks passing through land border POEs	25%		
	Total number of land border POEs within boundaries of border States	25%		

Appendix D (continued)

PROGRAM	FACTORS	WEIGHT	STATUTE[1]	MINIMUM APPORTIONMENT
Metropolitan Planning	Urbanized area population[2]	100%	104(f)(2)	½ percent
Appalachian Development Highway System	Latest available cost to complete estimates under section 14501 of title 40, U.S.C.	100%	1116 of SAFETEA-LU	None
Equity Bonus	Each State's share of High Priority Project funding and apportionments for Interstate Maintenance, National Highway System, Surface Transportation, Bridge, Congestion Mitigation and Air Quality Improvement, Highway Safety Improvement, Safe Routes to School, Railway-Highway Crossings, Coordinated Border Infrastructure, Recreational Trails, Metropolitan Planning, Appalachian Development Highway System, and the Equity Bonus programs must be at least a specified share (90.5% for FYs 2005-2006, 91.5% for FY 2007, and 92% for FYs 2008-2009) of its estimated payments into the Highway Account of the Highway Trust Fund, or, for certain States, no less than the share of apportionments and High Priority Project funding it received under TEA-21, except that no State may receive an amount less than a specified percentage (117%, 118%, 119%, 120%, 121% for FYs 2005-2009, respectively) of the average annual amount it received in apportionments and High Priority Projects under TEA-21.	100%	105	None

[1]Denotes appropriate section in Title 23, U.S.C., unless otherwise indicated.

[2]Usually places of 50,000 or more persons. Definition contained in 23 U.S.C. 101(a).

Appendix E: Penalties

TYPE/STATUTE	DESCRIPTION	PENALTY
Vehicle Weight Limitations—Interstate System 23 U.S.C. 127(a)	States must permit a minimum and maximum of 20,000 pound single axle, 34,000 pound tandem axle, and 80,000 pound gross weight of combination (5 axles or more) vehicles to operate on the Interstate System. Maximum weight cannot exceed allowable under bridge formula. Grandfather rights create State-specific exceptions to all limits.	Withholding of National Highway System (NHS) apportionments. If not restored during availability period, the apportionment lapses.
Enforcement of Vehicle Size and Weight Laws 23 U.S.C. 141(a)&(b)	Each State must certify that it is enforcing all State laws respecting maximum vehicle size and weights permitted on the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system, including the Interstate System in accordance with 23 U.S.C. §127.	Withholding of 10 percent of the apportionments for Interstate Maintenance (IM), NHS, Surface Transportation Program (STP), Highway Safety Improvement Program (HSIP), Congestion Mitigation and Air Quality (CMAQ), and Recreational Trails programs. Apportionments are restored if enforcement is shown to be acceptable within 1 year; otherwise, reapportioned to all other eligible States.
Registration—Proof of Heavy Vehicle Use Tax Payment 23 U.S.C. 141(c)	States must require proof of payment of Federal heavy vehicle use tax prior to registering heavy vehicles subject to the use tax.	Withholding of up to 25 percent of the apportionments for the IM program. The withheld apportionment is reapportioned to the other States using 23 U.S.C. 104(b)(4), i.e., the IM formula.
Control of Outdoor Advertising 23 U.S.C. 131	States must provide for effective control of outdoor advertising signs along the Interstate System, the primary system as it existed on June 1, 1991, and any highway not on such system but on the NHS. Effective control has been extended to include prohibiting the erection of new off-premise signs along any highway designated as a scenic byway on these systems.	Withholding of 10 percent of the apportionments for IM, NHS, STP, HSIP, CMAQ, and Recreational Trails. The withheld apportionment is reapportioned to the other States. The Secretary may suspend application of this penalty if deemed to be in the public interest.
Control of Junkyards 23 U.S.C. 136	States must provide for effective control of the establishment, use, and maintenance of junkyards adjacent to the Interstate systems.	Withholding of 10 percent of the apportionments for IM, NHS, STP, HSIP, CMAQ, and Recreational Trails. The withheld apportionment is reapportioned to the other States. The Secretary may suspend application of this penalty if deemed to be in the public interest.
Maintenance 23 U.S.C. 116	States must properly maintain or cause to be maintained any project constructed under the provisions of the Federal-aid Highway Program.	Cessation of project approvals for all types of projects in the State highway district, municipality, county, and other subdivisions of the State or the entire State.
Clean Air Act Compliance 1990 Clean Air Act Amendments 42 U.S.C. 7509	States are subject to State Implementation Plan (SIP) related sanctions. States must submit and implement all provisions of a complete, adequate SIP that provides for attainment of air quality standards in accordance with intermediate and final deadlines specified in the Clean Air Act.	Cessation of project approvals within the non-attainment area; sanctions may be expanded to cover the entire State under certain circumstances at the discretion of the Environmental Protection Agency (EPA) Administrator. Penalty applies for failure to submit a SIP, or other related provisions; EPA disapproval of a SIP; and for failure to implement the SIP. Some projects are exempt from sanctions (i.e., seven congressionally authorized activities that discourage single occupancy vehicles (SOV); safety projects whose principle purpose is to improve safety by significantly reducing or avoiding accidents; and projects which EPA finds will improve air quality and not encourage SOV).

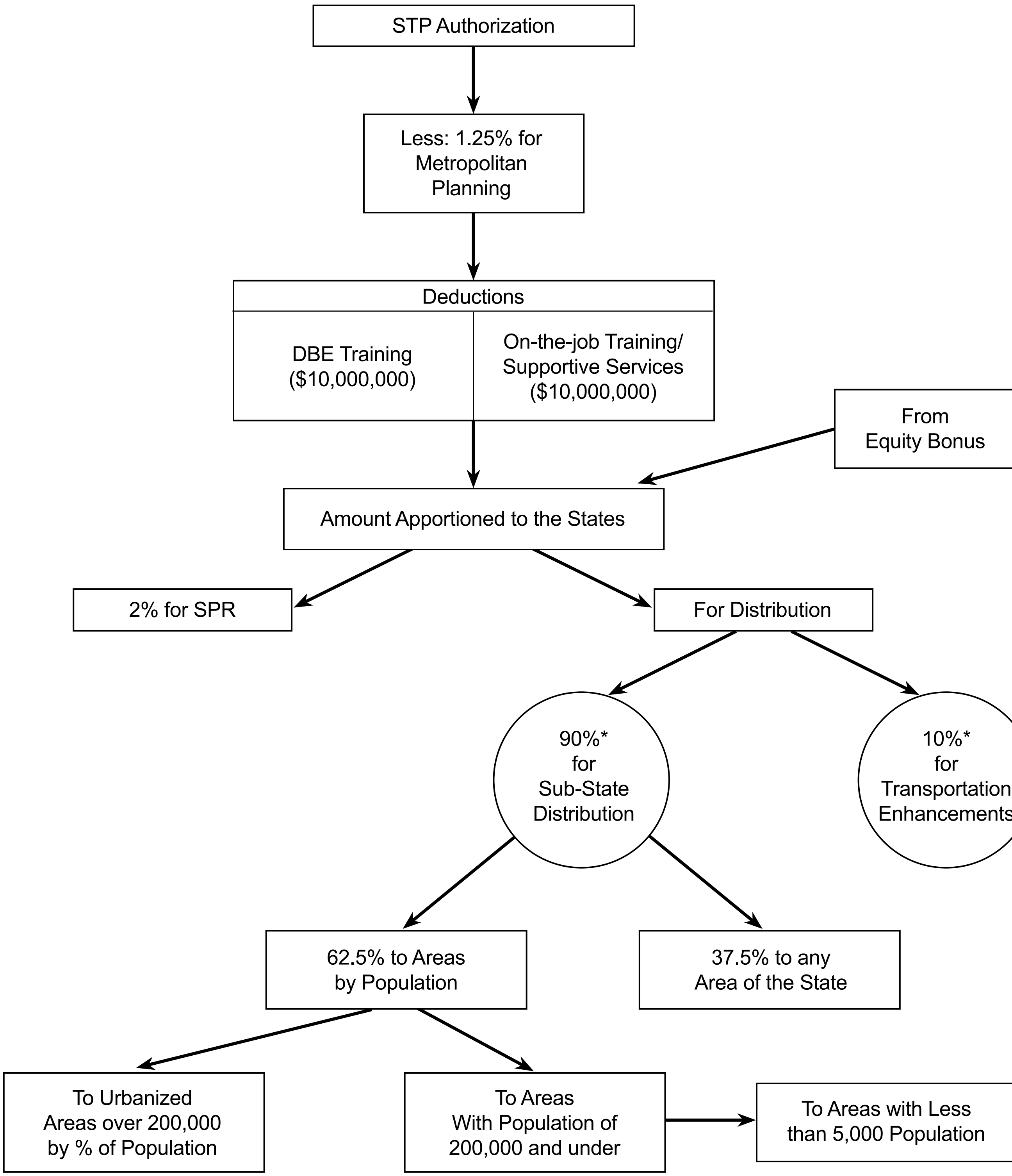
Appendix E (continued)

TYPE/STATUTE	DESCRIPTION	PENALTY
Air Quality Conformity 1990 Clean Air Act Amendments 42 U.S.C. 7509	No transportation plan, program, or project may be approved, accepted, or funded unless it has been found to conform to an applicable SIP by the metropolitan planning organization and the DOT. This means a well-coordinated FHWA/FTA finding, based on technical analysis of transportation and emissions models.	Lack of a conformity determination on an area's transportation plan or transportation improvement program will prevent the expenditure of FHWA and FTA funds on any activities, with the exception of certain exempt categories. Such a penalty would apply to the entire nonattainment area. Further, if the reason for nonconformity is not implementing transportation control measures, it could lead to the imposition of highway sanctions on a statewide basis.
National Minimum Drinking Age 23 U.S.C. 158	States must have laws that prohibit the purchase or public possession of any alcoholic beverage by a person who is less than 21 years of age.	Withholding of 10 percent of the apportionments for IM, NHS, and STP. Any funds withheld lapse.
Commercial Driver's License 49 U.S.C. 31314	States must be in compliance with minimum Federal standards for licensing, reporting, and penalties.	Withholding of 5 percent of the apportionments for IM, NHS and STP for first noncompliance; 10 percent thereafter. For funds withheld, there is no reserve period; that is, they lapse immediately.
Drug Offenders 23 U.S.C. 159	State must certify that it either: 1) has a law that requires the revocation or suspension of drivers' licenses for at least 6 months (or delay in the issuance of a license) for those convicted of any violation of the Controlled Substances Act or any drug offense or 2) has a statement by the Governor opposing enactment or enforcement of such a law and a resolution by the State legislature expressing opposition to such law.	Withholding of 10 percent of the apportionments for IM, NHS, and STP. Any funds withheld lapse.
Metropolitan Planning 23 U.S.C. 134(i)(5)	Metropolitan planning organizations (MPOs) in Transportation Management Areas must be certified at least every 3 years by the Secretary of Transportation to be carrying out the required planning process in accordance with applicable provisions of Federal law.	If an MPO is not certified, the Secretary may withhold up to 20% of the apportioned funds under Title 23 and Chapter 53 of Title 49 attributed to the relevant metropolitan area. Funds are restored when the MPO is certified.
Use of Safety Belts 23 U.S.C. 153(h)	State must have a law that makes it unlawful to operate a passenger vehicle if any front seat occupant (other than a child secured in a child restraint system) is not properly wearing a seat belt. An alternate compliance criterion is provided for New Hampshire (§354, P.L. 107-87, Dec. 18, 2001).	If a State does not have such a law in effect, the Secretary will transfer 3 percent of the apportionments for NHS, STP, and CMAQ to the Section 402 safety program.
Surface Transportation Program (STP) 23 U.S.C. 133	State must comply with all provisions of law relating to the STP.	If a State fails to take corrective action within 60 days after being notified by the Secretary of noncompliance, future STP apportionments will be withheld until corrective action has been taken.
Zero Tolerance Blood Alcohol Concentration for Minors 23 U.S.C. 161	State must enact and enforce a law that considers any individual under 21 years who has a blood alcohol concentration of 0.02 or above while operating a motor vehicle to be driving while intoxicated or driving under the influence of alcohol.	If a State does not have such a law in effect by October 1, 1999, the Secretary will withhold 10 percent of NHS, STP, and IM apportionments each fiscal year thereafter. Funds withheld before September 30, 2000, remain available for 3 fiscal years. Funds withheld after September 30, 2000, lapse immediately.

Appendix E (continued)

TYPE/STATUTE	DESCRIPTION	PENALTY
Open Container Requirements 23 U.S.C. 154	State must enact or have and enforce a law prohibiting the possession of open alcoholic beverage containers or the consumption of any alcoholic beverage in the passenger area of a motor vehicle. For motor vehicles designed to transport many passengers (such as for compensated transportation or in the living area of a mobile home), this requirement is considered satisfied if the State has a law prohibiting the possession of open alcoholic beverage containers by the driver (but not by a passenger).	For FY 2003 and afterwards, effective the first day of the fiscal year, a State that has either not enacted or is not enforcing such a provision will have an amount equivalent to 3 percent of its NHS, STP, and IM apportionments and associated obligation authority transferred to the State's Section 402 apportionment for use for alcohol-impaired driving countermeasures, for enforcement of impaired or intoxicated driving laws, or for hazard elimination activities, at the State's option. The amounts transferred to the State's Section 402 program may be derived from any combination of the NHS, STP, and IM apportionments at the State's option.
Repeat Offenders 23 U.S.C. 164	State must enact and enforce a law that provides that any individual convicted of a second or subsequent offense for driving under the influence or while intoxicated shall: a) have his/her driver's license suspended for at least 1 year; b) be subject to vehicle impoundment, immobilization, or ignition interlock installation; c) receive an assessment of the individual's degree of alcoholic abuse and treatment as appropriate; and d) receive at least an assignment of 30 days of community service or 5 days imprisonment for a second offense and at least an assignment of 60 days community service or 10 days imprisonment for a third or subsequent offense.	For FY 2003 and afterwards, effective the first day of the fiscal year, a State that has either not enacted or is not enforcing such a law will have an amount equivalent to 3 percent of its NHS, STP, and IM apportionments and associated obligation authority transferred to the State's Section 402 apportionment for use for alcohol-impaired driving countermeasures, for enforcement of impaired or intoxicated driving laws, or for hazard elimination activities, at the State's option. . The amounts transferred to the State's Section 402 program may be derived from any combination of the NHS, STP, and IM apportionments at the State's option.
Operation of Motor Vehicle by Intoxicated Persons 23 U.S.C. 163	State must enact and enforce a law that provides that any person with a blood alcohol content of 0.08 percent or greater while operating a motor vehicle to be driving while intoxicated.	Beginning October 1, 2003 and afterwards, effective the first day of the fiscal year, a State that has either not enacted or is not enforcing such a law will have withheld from its NHS, STP, and IM apportionments an amount equal to a percentage of the NHS, STP, and IM funds apportioned to the State for fiscal year 2003. The percentages are as follows: FY 2004 – 2% FY 2005 – 4% FY 2006 – 6% FY 2007 and thereafter – 8% If a State enacts and is enforcing the prescribed law within 4 years from the date that funds were withheld, the State's apportionments will be increased by an amount equal to the amount withheld. If a State has not enacted or is not enforcing the prescribed law at the end of the 4-year period, the withheld funds will lapse.

Appendix F: Surface Transportation Program (STP) Sub-State Distribution FY 2006-2009



* Beginning in 2006, the set-aside for TE is the greater of 10% or the amount set-aside for TE in the State in 2005. Consequently, the total amount available for sub-state distribution could be correspondingly lower.

Appendix G: Authorizations for Allocated Programs[1]

(Amounts in Millions of Dollars)

PROGRAM	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	TOTAL
Interstate Maintenance Discretionary Program	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	500,000,000
Alaska Highway	30,000,000	30,000,000	30,000,000	30,000,000	30,000,000	150,000,000
Territorial Highway Program	40,000,000	40,000,000	50,000,000	50,000,000	50,000,000	230,000,000
Bridge Discretionary Program	100,000,000	—	—	—	—	100,000,000
Bridge Setaside for Designated Projects	—	100,000,000	100,000,000	100,000,000	100,000,000	400,000,000
Operation Lifesaver	560,000	560,000	560,000	560,000	560,000	2,800,000
Rail-Highway Crossing Hazard Elimination in High-Speed Corridors	5,250,000	7,250,000	10,000,000	12,500,000	15,000,000	50,000,000
On-the-Job Training Supportive Services	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	50,000,000
Disadvantaged Business Enterprise Training	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000	50,000,000
Recreational Trails Research, Technical Assistance, and Training	840,000	840,000	840,000	840,000	840,000	4,200,000
Indian Reservation Roads	300,000,000	330,000,000	370,000,000	410,000,000	450,000,000	1,860,000,000
Park Roads and Parkways	180,000,000	195,000,000	210,000,000	225,000,000	240,000,000	1,050,000,000
Refuge Roads	29,000,000	29,000,000	29,000,000	29,000,000	29,000,000	145,000,000
Public Lands Highways	260,000,000	280,000,000	280,000,000	290,000,000	300,000,000	1,410,000,000
National Corridor Infrastructure Improvement Program	194,800,000	389,600,000	487,000,000	487,000,000	389,600,000	1,948,000,000
National Scenic Byways Program	26,500,000	30,000,000	35,000,000	40,000,000	43,500,000	175,000,000
Construction of Ferry Boats and Ferry Terminal Facilities	38,000,000	55,000,000	60,000,000	65,000,000	67,000,000	285,000,000
Puerto Rico Highway Program	115,000,000	120,000,000	135,000,000	145,000,000	150,000,000	665,000,000
Projects of National and Regional Significance	117,900,000	355,800,000	444,750,000	444,750,000	355,800,000	1,779,000,000
High Priority Projects Program	2,966,400,000	2,966,400,000	2,966,400,000	2,966,400,000	2,966,400,000	14,832,000,000
Safe Routes to School Administrative Expenses	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000	15,000,000
National Corridor Planning and Development and Coordinated Border Infrastructure Programs	140,000,000	—	—	—	—	140,000,000
Highways for LIFE	—	15,000,000	20,000,000	20,000,000	20,000,000	75,000,000
Highway Use Tax Evasion Projects	5,000,000	44,800,000	53,300,000	12,000,000	12,000,000	127,100,000
Transportation, Community, and System Preservation Program	25,000,000	61,250,000	61,250,000	61,250,000	61,250,000	270,000,000
Indian Reservation Road Bridges	14,000,000	14,000,000	14,000,000	14,000,000	14,000,000	70,000,000
Truck Parking Facilities	—	6,250,000	6,250,000	6,250,000	6,250,000	25,000,000
Freight Intermodal Distribution Pilot Grant Program	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000	30,000,000

Appendix G (continued)

PROGRAM	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	TOTAL
Delta Region Transportation Development Program	—	10,000,000	10,000,000	10,000,000	10,000,000	40,000,000
Toll Facilities Workplace Safety Study	—	500,000	—	—	—	500,000
Safety Incentive Grants for Use of Seat Belts	112,000,000	—	—	—	—	112,000,000
Work Zone Safety Grants	—	5,000,000	5,000,000	5,000,000	5,000,000	20,000,000
National Work Zone Safety Clearinghouse	—	1,000,000	1,000,000	1,000,000	1,000,000	4,000,000
Road Safety	—	500,000	500,000	500,000	500,000	2,000,000
Bicycle and Pedestrian Safety Grants (Clearinghouse)	300,000	500,000	500,000	500,000	500,000	2,300,000
Transportation Infrastructure Finance and Innovation Act Amendments	122,000,000	122,000,000	122,000,000	122,000,000	122,000,000	610,000,000
Value Pricing Pilot Program	11,000,000	12,000,000	12,000,000	12,000,000	12,000,000	59,000,000
America's Byways Resource Center	1,500,000	3,000,000	3,000,000	3,000,000	3,000,000	13,500,000
National Historic Covered Bridge Preservation	—	10,000,000	10,000,000	10,000,000	10,000,000	40,000,000
Additional Authorization of Contract Authority for States with Indian Reservations	1,800,000	1,800,000	1,800,000	1,800,000	1,800,000	9,000,000
Nonmotorized Transportation Pilot Program	—	25,000,000	25,000,000	25,000,000	25,000,000	100,000,000
Grant Program to Prohibit Racial Profiling	7,500,000	7,500,000	7,500,000	7,500,000	7,500,000	37,500,000
Pavement Marking Demonstration Projects	—	1,000,000	1,000,000	1,000,000	1,000,000	4,000,000
National Surface Transportation Policy and Revenue Study Commission	—	1,400,000	1,400,000	—	—	2,800,000
Road User Fees Field Test	—	2,000,000	3,500,000	3,500,000	3,500,000	12,500,000
Transportation Assets and Needs of the Delta Region	500,000	500,000	—	—	—	1,000,000
Transportation Projects (ssambn to make specified allocations)	255,523,600	511,047,200	638,809,000	638,809,000	511,047,200	2,555,236,000
Great Lakes ITS Implementation	—	2,000,000	2,000,000	2,000,000	3,000,000	9,000,000
Transportation Construction and Remediation, Ottawa Co., OK	—	10,000,000	—	—	—	10,000,000
Infrastructure Awareness	1,500,000	1,450,000	—	—	—	2,950,000
Denali Access System Program	—	15,000,000	15,000,000	15,000,000	15,000,000	60,000,000
I-95/Contee Road Interchange Study	—	1,000,000	—	—	—	1,000,000
Multimodal Facility Improvements	—	5,000,000	5,000,000	5,000,000	5,000,000	20,000,000
Surface Transportation Research, Development and Deployment Program	196,400,000	196,400,000	196,400,000	196,400,000	196,400,000	982,000,000

Appendix G (continued)

PROGRAM	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	TOTAL
Training and Education	26,700,000	26,700,000	26,700,000	26,700,000	26,700,000	133,500,000
Bureau of Transportation Statistics	27,000,000	27,000,000	27,000,000	27,000,000	27,000,000	135,000,000
University Transportation Research	69,700,000	69,700,000	69,700,000	69,700,000	69,700,000	348,500,000
Intelligent Transportation Systems Research	110,000,000	110,000,000	110,000,000	110,000,000	110,000,000	550,000,000
ITS Deployment	122,000,000	—	—	—	—	122,000,000
Total	**5,842,673,600**	**6,378,747,200**	**6,787,159,000**	**6,831,959,000**	**6,596,847,200**	**32,437,386,000**

[1]All programs in this list except those noted below are subject to the reduction of authorized contract authority to match the available obligation authority for the program ("lop off" provision) in section 1102(f) of SAFETEA-LU. See the "Obligation Limitation" section of this book or Appendix K for additional information about this provision. Programs listed above that are not subject to "lop off" are: Bureau of Transportation Statistics, Highway Use Tax Evasion Projects, High Priority Projects, Projects of National and Regional Significance, National Corridor Infrastructure Improvement Program, Transportation Projects, Bridge Discretionary Program and Bridge Setaside Projects.

This table reflects SAFETEA-LU as originally enacted. Subsequently, the Pension Protection Act of 2006 (P.L. 109-280) amended SAFETEA-LU to authorize $16,666,666 in contract authority for each of fiscal years 2007-2009 for the Going-to-Sun Road at Glacier National Park, Montana. The contract authority is subject to the reduction of authorized contract authority to match the available obligation authority for the program ("lop off" provision) in section 1102(f) of SAFETEA-LU.

Appendix H: Federal Share and Period of Availability for Selected Programs

PROGRAM	FEDERAL SHARE (%)[1]	AVAILABILITY YEARS
Interstate Maintenance Program	90 [1,8]	4
Interstate Maintenance Discretionary	90 [1]	Until Expended
National Highway System	80 [1,8]	4
Alaska Highway	100	Until Expended
Territorial Highways	100	4
Surface Transportation Program	80 [1,8]	4
Transportation Enhancements	80 [1,5]	4
Highway Bridge Replacement and Rehabilitation Program	80 [2,3]	4
Bridge Set-aside for Designated Projects	80 [2,3]	Until expended
Highway Safety Improvement Program	90 [1]	4
Congestion Mitigation & Air Quality Improvement Program	80 [1,8]	4
Federal Lands Highways Program		
Indian Reservation Roads	100	4
Public Lands Highways	100	4
Park Roads and Parkways	100	4
Refuge Roads	100	4
Equity Bonus Program	80 [6]	4
Appalachian Development Highway System	80	Until expended
Construction of Ferry Boats & Ferry Terminal Facilities	80	Until expended
Coordinated Border Infrastructure Program	80 [1]	Until expended
Denali Access System	80 [3]	Until expended
Delta Region Transportation Development Program	80 [1]	Until expended
Emergency Relief	80-100	Until expended
Freight Intermodal Distribution Pilot Program	80 [1]	Until expended
High Priority Projects	80 [7]	Until expended
Highway Use Tax Evasion	100	4
Highways for LIFE	80-100 [8]	4
Indian Reservation Roads Bridges	100	4
Metropolitan Planning	80 [1,9]	4
National Corridor Infrastructure Improvement Program	80 [1]	Until expended
National Scenic Byways	80	4
Nonmotorized Transportation Pilot Program	100	Until expended
Projects of National & Regional Significance	80 [7]	Until expended
Puerto Rico Highway Program	80 [1]	4
Railway-Highway Crossings	90	4
Recreational Trails	80 [3,10]	4
Research:		
Surface Transportation Research	50-100 [11]	Until expended
ITS Research	50-100 [11,12]	Until expended
Safe Routes to School	100	Until expended
State Planning and Research	80 [9]	4
Transportation, Community, & System Preservation Program	80 [3]	4
Transportation Improvements	80 [1,7]	Until expended
Truck Parking Facilities	80 [3,4]	Until expended
Value Pricing Pilot Program	80	4

[1]Unless otherwise specified, 23 U.S.C. 120 provides the Federal share for projects (90% Interstate, 80% non-Interstate), with up to 95% allowed for States with large amounts of Federal lands (sliding scale), up to 100% for certain safety projects, and up to 100% for Emergency Relief. As "otherwise specified," some programs give a specific Federal share, and some refer to all or part of Section 120 (for specific references within Sec.120, see 2, 3, & 4 below).

Appendix H (continued)

[2] Interstate projects [120(a)] -- the Federal share for projects on the Interstate system (including added HOV or auxiliary lanes, but excluding any other added lanes) shall be 90%, or according to sliding scale up to 95% for States with large amounts of Federal lands.

[3] Other projects [120(b)] – unless otherwise specified, Federal share is 80%, or according to sliding scale up to 95% for States with large amounts of Federal lands.

[4] Certain safety projects [120(c)] – Up to 100% Federal share allowed for specified safety and traffic operations projects. In total, no more than 10% of a State's apportionments under Section 104 (Interstate Maintenance, National Highway System, Surface Transportation Program, Congestion Mitigation and Air Quality Improvement Program, Highway Safety Improvement Program, and Recreational Trails Program) may be used at 100% Federal share for such projects.

[5] Generally, the Federal share is 80 percent, subject to the sliding scale adjustment, but this may be achieved on an aggregate, rather than project-by-project, basis.

[6] Funds programmatically distributed to other programs have the same Federal share as those programs. For the remainder of the funds ($2,639 million per year), the Federal share is determined under 23 USC 120, that is, the Federal share is generally 80 percent, subject to the sliding scale adjustment. When the funds are used for Interstate projects to add high occupancy vehicle or auxiliary lanes, but not other lanes, the Federal share may be 90 percent, also subject to the sliding scale adjustment.

[7] Federal share is 80%, except in Alaska, Montana, Nevada, North Dakota, Oregon, and South Dakota where sliding scale applies, and except for certain specified projects.

[8] Up to 10% of NHS, IM, STP, and/or CMAQ apportionments may be used to fund Highways for LIFE projects, in addition to funds authorized for the program under Section 1502 of SAFETEA-LU, at a Federal share of up to 100% of the cost of construction of the project. The Federal share for Highways for LIFE (Sec. 1502) funds used for Technology Partnerships is limited to 80%.

[9] May approve up to 100% if the Secretary finds that it is in the interest of the Federal-aid Highway Program.

[10] Up to a 95% Federal share allowed if Federal agency is project sponsor. Federal share may be calculated on a project or programmatic basis.

[11] Federal share is 50% unless otherwise determined by the Secretary or expressly provided by SAFETEA-LU.

[12] Federal share for demonstration projects and operational tests is 80%.

Appendix I: Transferability Between Apportioned Highway Programs[1]

PROGRAM	TRANSFERABILITY PROVISIONS	STATUTE
Interstate Maintenance Program (IM)	A State may transfer up to 50% of its IM apportionment to its NHS, STP, CMAQ, HBRRP, HSIP, and/or RT apportionments.	23 U.S.C. 126(a)
	If a State certifies, and the Secretary approves, that the IM apportionment is in excess of the State's needs for that program and that the State is adequately maintaining the Interstate System, the State may transfer such excess to its NHS or STP apportionments.	23 U.S.C. 119(c)(1)
National Highway System (NHS)	Up to 50% of a State's NHS apportionment may be transferred to its STP, IM, CMAQ, HBRRP, HSIP, and/or RT apportionment.	23 U.S.C. 126(a)
	Up to 100% may be transferred to the STP if approved by the Secretary as being in the public interest and if sufficient notice and opportunity for public comment is given.	23 U.S.C. 104(c)
Surface Transportation Program (STP)	A State may transfer up to 50% of its STP apportionment to its NHS, IM, CMAQ, HBRRP, HSIP, and/or RT apportionments except for limitations on the transfer of certain set-aside or suballocated funds as described below.	23 U.S.C. 126(a)
Transportation Enhancements (TE) Set-aside	Up to 25% of the difference between the amount set aside from a State's STP apportionment for TE for the fiscal year and the amount set aside for TE for FY 1997 may be transferred to the IM, CMAQ, NHS, HBRRP, HSIP, and/or RT apportionment.	23 U.S.C. 126(b)
Safety Set-aside	STP safety set-aside funds equivalent to the funds made available for FY 1991 for the Hazard Elimination (23 U.S.C. 152) and Railway-Highway Crossing (23 U.S.C. 130) programs may not be transferred. Up to 25% of the difference between the remainder of the safety set-aside for the fiscal year—the "optional safety" funds—and the comparable amount for FY 1997 may be transferred to the IM, CMAQ, NHS, HBRRP, HSIP, and/or RT apportionment.	23 U.S.C. 126(b)
Suballocation to Areas	STP funds allocated to sub-State areas may not be transferred to other highway programs.	23 U.S.C. 126(b)
Highway Bridge Replacement and Rehabilitation Program (HBRRP)	A State may transfer up to 50% of its HBRRP apportionment to its apportionment under IM, NHS, STP, CMAQ, HSIP, and/or Recreational Trails. For purposes of apportioning HBRRP funds in the following year, the transferred amount will be deducted from the total cost of deficient bridges in the State and in all States.	23 U.S.C. 126(a) and 144(e)
	A State may transfer up to 40% of its HPRRP apportionment to its Railway-Highway Crossing apportionment if the Secretary finds it to be in the public interest and up to 100% if the Secretary receives satisfactory assurances from the State DOT that the purposes of the HPRRP program have also been met.	23 U.S.C. 104(g)
	Funds set aside for off-system bridges may not be transferred unless a determination is made that the State has inadequate needs to justify expenditure of the full amount of the set-aside funds.	23 U.S.C. 144(g)(2)(B)
Congestion Mitigation and Air Quality Improvement Program (CMAQ)	A State may transfer to its STP, NHS, IM, HBRRP, HSIP, and/or RT apportionments up to 50% of the amount by which the CMAQ apportionment for the fiscal year exceeds the amount the State would have been apportioned if the program had been funded at $1.35 billion for the year. Transferred funds may only be used in air quality standards nonattainment and maintenance areas.	23 U.S.C. 126(c)
Recreational Trails Program (RT)	A State may transfer up to 50% of its RT apportionment to its apportionment under IM, NHS, STP, CMAQ, HSIP, and/or HBRRP	23 U.S.C. 126(a)
Metropolitan Planning	Metropolitan Planning apportionments may not be transferred to other highway program apportionments.	23 U.S.C. 126(b)
Highway Safety Improvement Program (HSIP)	A State may transfer up to 50% of its HSIP apportionment to its IM, NHS, STP, CMAQ, HBRRP, and/or RT apportionments.	23 U.S.C. 126(a)
Rail-Highway Crossings Program	A State may transfer up to 40% of its Rail-Highway Crossings apportionment to its HBRRP apportionment if the Secretary finds it to be in the public interest and up to 100% if the Secretary receives satisfactory assurances from the State DOT that the purposes of the Rail-Highway Crossings Program have also been met.	23 U.S.C. 104(g)

[1] This appendix describes options to transfer funds from one apportioned highway program to another. Other transfer options exist, including transfers of funds to from one State to another, from a State to Federal agency, or among certain projects designated in statute. Guidance on the full range of transfer options, as well as procedures for executing transfers, is issued by the Federal Highway Administration's Office of the Chief Financial Officer.

Appendix J: Step-by-Step Obligation Limitation Distribution[1]

		New FY 2006 Contract Authority	New FY 2006 Obligational Limitation
Beginning: Exclude Exempt Programs	**FY 2006 Total**	**39,114,181,064**	**36,032,343,903**
	Sec. 100 (b)		
	Exempt Programs:		
	Emergency Relief	100,000,000	—
	Equity Bonus	639,000,000	—
		739,000,000	—
	Total Subject to Limit	38,375,181,064	36,032,343,903
Adjustments	Less: 1% Rescission (Div. B, chap. 8, sec. 3801, P.L. 109-148)	383,751,81	360,323,439
	Less: Working Capital Fund Reduction	0	0
	Net of Adjustments	37,991,429,253	35,672,020,464
STEP 1: Set aside certain programs at 100%	**Sec. 110(a)(1)**		
	100% Accounts		
	FHWA Administration	360,448,645 [2]	360,991,620 [3]
	ARC Administrative Expenses	2,970,000	2,970,000
	OIG Audit Cost Reimbursement	3,488,760	3,488,760
	Recreational Trails Admin. Expenses	831,600	831,600
	Bureau of Transportation Statistics	26,730,000	26,730,000
	Highway Use Tax Evasion	44,352,000	44,352,000
	Section 117 (P.L. 108-447)	[4]	
	Delta Regional Authority	0	4,020,777
	Surface Transportation Projects	0	194,824,372
	Section 112 (FY 2006 DOT Approps)		
	Surface Transportation Projects	594,000,000	594,000,000
	Highway Priority Projects	24,750,000	24,750,000
	NHTSA's Operation and Research	121,232,430	121,232,430
	Catastrophic Hurricane Evacuation Plans	990,000	990,000
	Subtotal	1,179,793,435	1,379,181,559
STEP 2: Set aside limitation for carryover	**Sec. 110(a)(2)**		
	Carryover, Allocated Programs	—	2,254,079,899
STEP 3: Determine OA/CA ratio	**Sec. 110(a)(3)**		
	Subtotal to Determine Ratio (Balances remaining after setasides in Steps 1 & 2)	36,811,635,818	32,038,759,006
	Ratio	87.034325680%	87.0%
STEP 4: Set aside "No-Year" limitation for specific programs based on ratio	**Sec. 110(a)(4)**		
	Special "No-Year" Limitation		
	Equity Bonus	2,000,000,000	2,000,000,000
	High Priority Projects	2,936,736,000	2,554,960,320
	Appalachian Development Highway System (after takedown)	454,362,914	395,295,735
	National Corridor Infrastructure Improvement Program (Sec. 1302)	385,704,000	335,562,480
	Transportation Improvements (Sec. 1934)	505,936,728	440,164,953
	Bridge Setaside (Sec. 144(g))	99,000,000	86,130,000
	Projects of National & Regional Significance (Sec. 1301)	352,242,000	306,450,540
	Subtotal	6,733,981,642	6,118,564,029
STEP 5: Set aside limitation for allocated programs based on ratio	**Sec. 110(a)(5)**		
	Allocated Programs	1,925,816,723	1,675,460,549
	Less: Puerto Rico penalties that immediately lapse	18,203,168	—
STEP 6: Distribute remaining limitation to the States	**Sec. 110(a)(6)**		
	Distributed to the States (Before transfer penalties for States)	28,133,634,285	24,244,734,429 86.1770441%

[1] To illustrate the distribution of obligation authority, this appendix shows the detailed application of the provisions in Section 110 of P.L. 109-115 to the distribution of FY 2006 obligation limitation.
[2] Obligation limitation exceeded SAFETEA-LU contract authority by $548,460.
[3] Limitation on Administrative Expenses for FY 2006 set in the DOT Appropriations Act.
[4] The FY 2005 Consolidated Appropriations Act provided contract authority, but only partial obligation limitation for these two programs. The FY 2006 DOT Appropriations Act provided additional contract authority.

Appendix K: Allocated Programs Subject to Sec. 1102(f) Reduction ("Lop off")

ALLOCATED PROGRAM[1]	FY 2006 AUTHORIZATION[2]	OBLIGATION LIMITATION RATIO	FY 2006 LIMITATION
Interstate Maintenance Discretionary	99,000,000	87.0%	86,130,000
Alaska Highway	29,700,000	87.0%	25,839,000
Territorial Highway Program	39,600,000	87.0%	34,452,000
Operation Lifesaver	554,400	87.0%	482,328
Rail-Highway Crossing Hazard Elimination in High-Speed Corridors	7,177,500	87.0%	6,244,425
On-the-Job Training Supportive Services	9,900,000	87.0%	8,613,000
Disadvantaged Business Enterprise Training	9,900,000	87.0%	8,613,000
Indian Reservation Roads (net of takedown in P.L. 109-115, §112}	319,020,770	87.0%	277,548,070
Park Roads and Parkways (net of takedown in P.L. 109-115, §112}	188,512,273	87.0%	164,005,678
Refuge Roads (net of takedown in P.L. 109-115, §112}	28,035,159	87.0%	24,390,588
Public Lands Highways (net of takedown in P.L. 109-115, §112}	270,684,289	87.0%	235,495,331
National Scenic Byways Program	29,700,000	87.0%	25,839,000
Construction of Ferry Boats and Ferry Terminal Facilities	54,450,000	87.0%	47,371,500
Puerto Rico Highway Program (net of penalties)	100,596,832	87.0%	87,519,244
Safe Routes to School Administrative Expenses	2,970,000	87.0%	2,583,900
Highways for LIFE	14,850,000	87.0%	12,919,500
Transportation, Community, and System Preservation Program	60,637,500	87.0%	52,754,625
Indian Reservation Road Bridges	13,860,000	87.0%	12,058,200
Truck Parking Facilities	6,187,500	87.0%	5,383,125
Freight Intermodal Distribution Pilot Grant Program	5,940,000	87.0%	5,167,800
Delta Region Transportation Development Program	9,900,000	87.0%	8,613,000
Toll Facilities Workplace Safety Study	495,000	87.0%	430,650
Work Zone Safety Grants	4,950,000	87.0%	4,306,500
National Work Zone Safety Clearinghouse	990,000	87.0%	861,300
Road Safety	495,000	87.0%	430,650
Bicycle and Pedestrian Safety Grants (Clearinghouse)	495,000	87.0%	430,650
Transportation Infrastructure Finance and Innovation Act Amendments	120,780,000	87.0%	105,078,600
Value Pricing Pilot Program	11,880,000	87.0%	10,335,600
America's Byways Resource Center	2,970,000	87.0%	2,583,900
National Historic Covered Bridge Preservation	9,900,000	87.0%	8,613,000
Add'l Authorization of Contract Authority for States with Indian Reservations	1,782,000	87.0%	1,550,340
Nonmotorized Transportation Pilot Program	24,750,000	87.0%	21,532,500
Grant Program to Prohibit Racial Profiling	7,425,000	87.0%	6,459,750
Pavement Marking Demonstration Projects	990,000	87.0%	861,300
National Surface Transportation Policy and Revenue Study Commission	1,386,000	87.0%	1,205,820
Road User Fees Field Test	1,980,000	87.0%	1,722,600
Transportation Assets and Needs of the Delta Region	495,000	87.0%	430,650
Great Lakes ITS Implementation	1,980,000	87.0%	1,722,600
Transportation Construction and Remediation, Ottawa Co., OK	9,900,000	87.0%	8,613,000
Infrastructure Awareness	1,435,500	87.0%	1,248,885
Denali Access System Program	14,850,000	87.0%	12,919,500
I-95/Contee Road Interchange Study	990,000	87.0%	861,300
Multimodal Facility Improvements	4,950,000	87.0%	4,306,500
Surface Transportation Research, Development and Deployment Program	194,436,000	87.0%	169,159,320
Training and Education	26,433,000	87.0%	22,996,710
University Transportation Research	69,003,000	87.0%	60,032,610
Intelligent Transportation Systems Research	108,900,000	87.0%	94,743,000
TOTAL	**1,925,816,723**		**1,675,460,549**

[1]This table lists programs subject to "lop off" under SAFETEA-LU as originally enacted. Subsequently, the Pension Protection Act of 2006 (P.L. 109-280) amended SAFETEA-LU to authorize $16,666,666 in contract authority for each of fiscal years 2007-2009 for the Going-to-the-Sun Road at Glacier National Park, Montana. That contract authority is also subject to "lop off" provision.

[2]Authorized amount is shown net of a 1% rescission required by section 3801 of Division B of P.L. 109-148.

Appendix L: Federal Excise Taxes on Highway Motor Fuel[1]

(Cents per Gallon)

TAX RATE		EFFECTIVE DATE	DISTRIBUTION OF TAX: HIGHWAY TRUST FUND: HIGHWAY ACCOUNT	HIGHWAY TRUST FUND: MASS TRANSIT ACCOUNT	LEAKING UNDERGROUND STORAGE TANK TRUST FUND	GENERAL FUND FOR: DEFICIT REDUCTION	GENERAL FUND FOR: NOT SPECIFIED	SOURCE OF CHANGE
GASOLINE								
3		07/01/1956	3	-	-	-	-	Highway Revenue Act of 1956 P.L. 84-627
4		10/01/1959	4	-	-	-	-	Federal-Aid Highway Act of 1959 P.L. 86-342
9	2	04/01/1983	8	1	-	-	-	Surface Transportation Assistance Act of 1982 P.L. 97-424
9	2	08/01/1984	8	1	-	-	-	Deficit Reduction Act of 1984 P.L. 98-369
9.1		01/01/1987	8	1	0.1	-	-	Superfund Amendments and Reauthorization Act of 1986 P.L. 99-499
14.1		12/01/1990	10	1.5	0.1	2.5	-	Omnibus Budget Reconciliation Act of 1990 P.L. 101-508
18.4		10/01/1993	10	1.5	0.1	6.8	-	Omnibus Budget Reconciliation Act of 1993 P.L. 103-66
18.4		10/01/1995	12	2	0.1	4.3	-	Omnibus Budget Reconciliation Act of 1993 P.L. 103-66
18.3		01/01/1996	12	2	-	4.3	-	Omnibus Budget Reconciliation Act of 1990 P.L. 101-508
18.4		10/01/1997	15.45	2.85	0.1	-	-	Taxpayer Relief Act of 1997 P.L. 105-34
18.4	3	10/01/1997	15.44	2.86	0.1	-	-	Transportation Equity Act for the 21st Century P.L. 105-178
DIESEL FUEL								
3		07/01/1956	3	-	-	-	-	Highway Revenue Act of 1956 P.L. 84-627
4		10/01/1959	4	-	-	-	-	Federal-Aid Highway Act of 1959 P.L. 86-342
9	2	04/01/1983	8	1	-	-	-	Surface Transportation Assistance Act of 1982 P.L. 97-424
15	2	08/01/1984	14	1	-	-	-	Deficit Reduction Act of 1984 P.L. 98-369
15.1		01/01/1987	14	1	0.1	-	-	Superfund Amendments and Reauthorization Act of 1986 P.L. 99-499
20.1		12/01/1990	16	1.5	0.1	2.5	-	Omnibus Budget Reconciliation Act of 1990 P.L. 101-508
24.4		10/01/1993	16	1.5	0.1	6.8	-	Omnibus Budget Reconciliation Act of 1993 P.L. 103-66
24.4		10/01/1995	18	2	0.1	4.3	-	Omnibus Budget Reconciliation Act of 1993 P.L. 103-66
24.3		01/01/1996	18	2	-	4.3	-	Omnibus Budget Reconciliation Act of 1990 P.L. 101-508
24.4		10/01/1997	21.45	2.85	0.1	-	-	Taxpayer Relief Act of 1997 P.L. 105-34
24.4	3	10/01/1997	21.44	2.86	0.1	-	-	Transportation Equity Act for the 21st Century P.L. 105-178
GASOHOL[4] 10 Percent Made with Ethanol								
3		07/01/1956	3	-	-	-	-	Highway Revenue Act of 1956 P.L. 84-627
4		10/01/1959	4	-	-	-	-	Federal-Aid Highway Act of 1959 P.L. 86-342
0		01/01/1979	-	-	-	-	-	Energy Tax Act of 1978 P.L. 95-618
4	2	04/01/1983	3.56	0.44	-	-	-	Surface Transportation Assistance Act of 1982 P.L. 97-424
4	2	08/01/1984	3	1	-	-	-	Deficit Reduction Act of 1984 P.L. 98-369
3		01/01/1985	2	1	-	-	-	Deficit Reduction Act of 1984 P.L. 98-369
3.1		01/01/1987	2	1	0.1	-	-	Superfund Amendments and Reauthorization Act of 1986 P.L. 99-499
8.7		12/01/1990	4	1.5	0.1	2.5	0.6	Omnibus Budget Reconciliation Act of 1990 P.L. 101-508
13		10/01/1993	4	1.5	0.1	6.8	0.6	Omnibus Budget Reconciliation Act of 1993 P.L. 103-66
13		10/01/1995	3.5	2	0.1	6.8	0.6	Omnibus Budget Reconciliation Act of 1993 P.L. 103-66
12.9		01/01/1996	3.4	2	-	6.9	0.6	Omnibus Budget Reconciliation Act of 1990 P.L. 101-508
13		10/01/1997	6.95	2.85	0.1	2.5	0.6	Taxpayer Relief Act of 1997 P.L. 105-34

Appendix L (continued)

TAX RATE		EFFECTIVE DATE	DISTRIBUTION OF TAX: HIGHWAY TRUST FUND: HIGHWAY ACCOUNT	MASS TRANSIT ACCOUNT	LEAKING UNDERGROUND STORAGE TANK TRUST FUND	GENERAL FUND FOR: DEFICIT REDUCTION	NOT SPECIFIED	SOURCE OF CHANGE
GASOHOL[4] 10 Percent Made with Ethanol (continued)								
13	3	10/01/1997	6.94	2.86	0.1	2.5	0.6	Transportation Equity Act for the 21st Century P.L. 105-178
13		12/21/2000	7.54	2.86	0.1	2.5	-	Consolidated Appropriations Act, 2001 P.L. 106-554
13.1		01/01/2001	7.64	2.86	0.1	2.5	-	Transportation Equity Act for the 21st Century P.L. 105-178
13.2		01/01/2003	7.74	2.86	0.1	2.5	-	Transportation Equity Act for the 21st Century P.L. 105-178
13.2		10/01/2003	10.24	2.86	0.1	-	-	Surface Transportation Extension Act of 2004, Part V P.L. 108-310
18.4	5	01/01/2005	15.44	2.86	0.1	-	-	American Jobs Creation Act of 2004 P.L. 108-357
GASOHOL[4] 7.7 Percent Made with Ethanol								
3		07/01/1956	3	-	-	-	-	Highway Revenue Act of 1956 P.L. 84-627
4		10/01/1959	4	-	-	-	-	Federal-Aid Highway Act of 1959 P.L. 86-342
9	2	04/01/1983	8	1	-	-	-	Surface Transportation Assistance Act of 1982 P.L. 97-424
9	2	08/01/1984	8	1	-	-	-	Deficit Reduction Act of 1984 P.L. 98-369
9.1		01/01/1987	8	1	0.1	-	-	Superfund Amendments and Reauthorization Act of 1986 P.L. 99-499
14.1		12/01/1990	10	1.5	0.1	2.5	-	Omnibus Budget Reconciliation Act of 1990 P.L. 101-508
9.942		01/01/1993	5.842	1.5	0.1	2.5	-	Energy Policy Act of 1992 P.L. 102-486
14.242		10/01/1993	5.842	1.5	0.1	6.8	-	Omnibus Budget Reconciliation Act of 1993 P.L. 103-66
14.242		10/01/1995	5.342	2	0.1	6.8	-	Omnibus Budget Reconciliation Act of 1993 P.L. 103-66
14.142		01/01/1996	5.242	2	-	6.9	-	Omnibus Budget Reconciliation Act of 1990 P.L. 101-508
14.242		10/01/1997	8.792	2.85	0.1	2.5	-	Taxpayer Relief Act of 1997 P.L. 105-34
14.242	3	10/01/1997	8.782	2.86	0.1	2.5	-	Transportation Equity Act for the 21st Century P.L. 105-178
14.319		01/01/2001	8.859	2.86	0.1	2.5	-	Transportation Equity Act for the 21st Century P.L. 105-178
14.396		01/01/2003	8.936	2.86	0.1	2.5	-	Transportation Equity Act for the 21st Century P.L. 105-178
14.396		10/01/2003	11.436	2.86	0.1	-	-	Surface Transportation Extension Act of 2004, Part V P.L. 108-310
18.4	5	01/01/2005	15.44	2.86	0.1	-	-	American Jobs Creation Act of 2004 P.L. 108-357
GASOHOL[4] 5.7 Percent Made with Ethanol								
3		07/01/1956	3	-	-	-	-	Highway Revenue Act of 1956 P.L. 84-627
4		10/01/1959	4	-	-	-	-	Federal-Aid Highway Act of 1959 P.L. 86-342
9	2	04/01/1983	8	1	-	-	-	Surface Transportation Assistance Act of 1982 P.L. 97-424
9	2	08/01/1984	8	1	-	-	-	Deficit Reduction Act of 1984 P.L. 98-369
9.1		01/01/1987	8	1	0.1	-	-	Superfund Amendments and Reauthorization Act of 1986 P.L. 99-499
14.1		12/01/1990	10	1.5	0.1	2.5	-	Omnibus Budget Reconciliation Act of 1990 P.L. 101-508
11.022		01/01/1993	6.922	1.5	0.1	2.5	-	Energy Policy Act of 1992 P.L. 102-486
15.322		10/01/1993	6.922	1.5	0.1	6.8	-	Omnibus Budget Reconciliation Act of 1993 P.L. 103-66
15.322		10/01/1995	6.422	2	0.1	6.8	-	Omnibus Budget Reconciliation Act of 1993 P.L. 103-66
15.222		01/01/1996	6.322	2	-	6.9	-	Omnibus Budget Reconciliation Act of 1990 P.L. 101-508
15.322		10/01/1997	9.872	2.85	0.1	2.5	-	Taxpayer Relief Act of 1997 P.L. 105-34
15.322	3	10/01/1997	9.862	2.86	0.1	2.5	-	Transportation Equity Act for the 21st Century P.L. 105-178
15.379		01/01/2001	9.919	2.86	0.1	2.5	-	Transportation Equity Act for the 21st Century P.L. 105-178

Appendix L (continued)

TAX RATE	EFFECTIVE DATE	DISTRIBUTION OF TAX: HIGHWAY TRUST FUND: HIGHWAY ACCOUNT	DISTRIBUTION OF TAX: HIGHWAY TRUST FUND: MASS TRANSIT ACCOUNT	DISTRIBUTION OF TAX: LEAKING UNDERGROUND STORAGE TANK TRUST FUND	DISTRIBUTION OF TAX: GENERAL FUND FOR: DEFICIT REDUCTION	DISTRIBUTION OF TAX: GENERAL FUND FOR: NOT SPECIFIED	SOURCE OF CHANGE
GASOHOL[4]							
5.7 Percent Made with Ethanol (continued)							
15.436	01/01/2003	9.976	2.86	0.1	2.5	-	Transportation Equity Act for the 21st Century P.L. 105-178
15.436	10/01/2003	12.476	2.86	0.1	-	-	Surface Transportation Extension Act of 2004, Part V P.L. 108-310
18.4 [5]	01/01/2005	15.44	2.86	0.1	-	-	American Jobs Creation Act of 2004 P.L. 108-357
SPECIAL FUELS							
General Rates							
3	07/01/1956	3	-	-	-	-	Highway Revenue Act of 1956 P.L. 84-627
4	10/01/1959	4	-	-	-	-	Federal-Aid Highway Act of 1959 P.L. 86-342
9 [2]	04/01/1983	8	1	-	-	-	Surface Transportation Assistance Act of 1982 P.L. 97-424
9 [2]	08/01/1984	8	1	-	-	-	Deficit Reduction Act of 1984 P.L. 98-369
9.1	01/01/1987	8	1	0.1	-	-	Superfund Amendments and Reauthorization Act of 1986 P.L. 99-499
14.1	12/01/1990	10	1.5	0.1	2.5	-	Omnibus Budget Reconciliation Act of 1990 P.L. 101-508
18.4	10/01/1993	10	1.5	0.1	6.8	-	Omnibus Budget Reconciliation Act of 1993 P.L. 103-66
18.4	10/01/1995	12	2	0.1	4.3	-	Omnibus Budget Reconciliation Act of 1993 P.L. 103-66
18.3	01/01/1996	12	2	-	4.3	-	Omnibus Budget Reconciliation Act of 1990 P.L. 101-508
18.4	10/01/1997	15.45	2.85	0.1	-	-	Taxpayer Relief Act of 1997 P.L. 105-34
18.4 [3]	10/01/1997	15.44	2.86	0.1	-	-	Transportation Equity Act for the 21st Century P.L. 105-178
SPECIAL FUELS							
Liquefied Petroleum Gases							
3	07/01/1956	3	-	-	-	-	Highway Revenue Act of 1956 P.L. 84-627
4	10/01/1959	4	-	-	-	-	Federal-Aid Highway Act of 1959 P.L. 86-342
9 [2]	04/01/1983	8	1	-	-	-	Surface Transportation Assistance Act of 1982 P.L. 97-424
9 [2]	08/01/1984	8	1	-	-	-	Deficit Reduction Act of 1984 P.L. 98-369
14	12/01/1990	10	1.5	-	2.5	-	Omnibus Budget Reconciliation Act of 1990 P.L. 101-508
18.3	10/01/1993	10	1.5	-	6.8	-	Omnibus Budget Reconciliation Act of 1993 P.L. 103-66
18.3	10/01/1995	12	2	-	4.3	-	Omnibus Budget Reconciliation Act of 1993 P.L. 103-66
13.6	10/01/1997	10.75	2.85	-	-	-	Taxpayer Relief Act of 1997 P.L. 105-34
13.6 [3]	10/01/1997	11.47	2.13	-	-	-	Transportation Equity Act for the 21st Century P.L. 105-178
18.3	10/01/2006	16.17	2.13	-	-	-	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users P.L. 109-59
SPECIAL FUELS							
Liquefied Natural Gas							
3	07/01/1956	3	-	-	-	-	Highway Revenue Act of 1956 P.L. 84-627
4	10/01/1959	4	-	-	-	-	Federal-Aid Highway Act of 1959 P.L. 86-342
9 [2]	04/01/1983	8	1	-	-	-	Surface Transportation Assistance Act of 1982 P.L. 97-424
9 [2]	08/01/1984	8	1	-	-	-	Deficit Reduction Act of 1984 P.L. 98-369
9.1	01/01/1987	8	1	0.1	-	-	Superfund Amendments and Reauthorization Act of 1986 P.L. 99-499
14.1	12/01/1990	10	1.5	0.1	2.5	-	Omnibus Budget Reconciliation Act of 1990 P.L. 101-508
18.4	10/01/1993	10	1.5	0.1	6.8	-	Omnibus Budget Reconciliation Act of 1993 P.L. 103-66
18.4	10/01/1995	12	2	0.1	4.3	-	Omnibus Budget Reconciliation Act of 1993 P.L. 103-66
18.3	01/01/1996	12	2	-	4.3	-	Omnibus Budget Reconciliation Act of 1990 P.L. 101-508

Appendix L (continued)

TAX RATE		EFFECTIVE DATE	DISTRIBUTION OF TAX: HIGHWAY TRUST FUND: HIGHWAY ACCOUNT	HIGHWAY TRUST FUND: MASS TRANSIT ACCOUNT	LEAKING UNDERGROUND STORAGE TANK TRUST FUND	GENERAL FUND FOR: DEFICIT REDUCTION	GENERAL FUND FOR: NOT SPECIFIED	SOURCE OF CHANGE
SPECIAL FUELS Liquefied Natural Gas (continued)								
11.9		10/01/1997	9.05	2.85	-	-	-	Taxpayer Relief Act of 1997 P.L. 105-34
11.9	3	10/01/1997	10.04	1.86	-	-	-	Transportation Equity Act for the 21st Century P.L. 105-178
24.3		10/01/2006	22.44	1.86	-	-	-	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users P.L. 109-59
SPECIAL FUELS M85 and M100 with Methanol from Natural Gas[6]								
3		07/01/1956	3	-	-	-	-	Highway Revenue Act of 1956 P.L. 84-627
4		10/01/1959	4	-	-	-	-	Federal-Aid Highway Act of 1959 P.L. 86-342
9		04/01/1983	8	1	-	-	-	Surface Transportation Assistance Act of 1982 P.L. 97-424
4.5		08/01/1984	3.5	1	-	-	-	Deficit Reduction Act of 1984 P.L. 98-369
4.6		01/01/1987	3.5	1	0.1	-	-	Superfund Amendments and Reauthorization Act of 1986 P.L. 99-499
7.1		12/01/1990	4.25	1.5	0.1	1.25	-	Omnibus Budget Reconciliation Act of 1990 P.L. 101-508
11.4		10/01/1993	4.25	1.5	0.1	5.55	-	Omnibus Budget Reconciliation Act of 1993 P.L. 103-66
11.4		10/01/1995	5	2	0.1	4.3	-	Omnibus Budget Reconciliation Act of 1993 P.L. 103-66
11.3		01/01/1996	5	2	-	4.3	-	Omnibus Budget Reconciliation Act of 1990 P.L. 101-508
9.25		10/01/1997	6.3	2.85	0.1	-	-	Taxpayer Relief Act of 1997 P.L. 105-34
9.25	3	10/01/1997	7.72	1.43	0.1	-	-	Transportation Equity Act for the 21st Century P.L. 105-178
COMPRESSED NATURAL GAS[7] (Cents per Thousand Cubic Feet)								
48.54		10/01/1993	-	-	-	48.54	-	Omnibus Budget Reconciliation Act of 1993 P.L. 103-66
48.54		10/01/1997	38.94	9.6	-	-	-	Taxpayer Relief Act of 1997 P.L. 105-34
48.54	3	10/01/1997	38.83	9.71	-	-	-	Transportation Equity Act for the 21st Century P.L. 105-178
144.47	8	10/01/2006	134.76	9.71	-	-	-	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users P.L. 109-59

[1]This table shows the fuel tax rates for highway use of motor fuels, along with the allocation of the revenues derived from the tax, in effect July 1, 1956 and subsequent changes.

[2]The Surface Transportation Assistance Act of 1982 (P.L. 97-424) provided that the Mass Transit Account would receive one-ninth of the fuel tax proceeds. The Deficit Reduction Act of 1984 (P.L. 98-369) provided that the Mass Transit Account would receive 1 cent per gallon. For most fuels, the change had no practical effect.

[3]The Transportation Equity Act for the 21st Century retroactively revised the Mass Transit Account share of the fuel tax.

[4]Gasohol was not defined in Federal tax law prior to January 1, 1979. The products later defined as gasohol were taxable, to the extent they existed, under the provisions of the gasoline tax. Effective January 1, 1979, the Energy Tax Act of 1978 defined gasohol to be a blend of gasoline and at least 10 percent (by volume) alcohol, excluding alcohol made from petroleum, natural gas, or goal. Blends with less than 10 percent alcohol were taxable as gasoline. The Energy Policy Act of 1992 expanded the definition of gasohol effective January 1, 1993. Under that Act, the product now called 10-percent gasohol corresponds to the definition under the Energy Tax Act of 1978. The Energy Policy Act of 1992 also defined two additional types of gasohol. The term 7.7 percent gasohol includes gasoline-alcohol blends where the alcohol content is at least 7.7 percent but less than 10 percent. The term 5.7 percent gasohol includes gasoline-alcohol blends where the alcohol content is at least 5.7 percent but less than 7.7 percent. The rates shown are for gasohol made with ethanol. Different rates applied to gasohol made with methanol, but such blends were never in common use.

[5]Effective January 1, 2005, gasohol's partial exemption from the gasoline tax was replaced by an equivalent excise tax credit paid from the General Fund of the Treasury.

[6]The rates shown are for gasoline-alcohol blends where the alcohol is methanol produced from natural gas. Other rates apply to blends where the alcohol is ethanol or is methanol produced from sources other than natural gas.

[7]Prior to October 1, 1993, compressed natural gas (CNG) was not taxed.

[8]Effective October 1, 2006, the tax rate for compressed natural gas is 18.3 cents per energy equivalent gasoline gallon. The Internal Revenue Service has made a rate determination of 18.3 cents per 126.67 cubic feet. The rate shown in the table above has been converted to a rate per thousand cubic feet to allow easier comparison to the prior rates.

Endnotes

[1]TEA-21 was enacted on June 9, 1998. A technical correction act to the TEA-21 was included as Title IX of P.L. 105-206, the Internal Revenue Restructuring and Reform Act of 1998, enacted July 22, 1998. Title IX is cited as the "TEA 21 Restoration Act."

[2]The Federal Motor Carrier Safety Administration was established as a separate operating administration within the DOT on January 1, 2000, pursuant to the Motor Carrier Safety Improvement Act of 1999 (P.L. 106-159).

[3]The Pipeline and Hazardous Materials Safety Administration (PHMSA) was created under the Norman Y. Mineta Research and Special Programs Improvement Act (P.L. 108-426). President Bush signed the legislation into law on November 30, 2004.

[4]The Research and Innovative Technology Administration (RITA) was created under the Norman Y. Mineta Research and Special Programs Improvement Act (P.L. 108-426). President Bush signed the legislation into law on November 30, 2004.

[5]The Legislative Reorganization Act of 1946.

[6]Although there are additional steps between committee approval and consideration on the floor of Congress, such as passing through the Rules Committee in the House, they are omitted for brevity.

[7]These activities are authorized in Titles I, V, and VI of the SAFETEA-LU. For the purposes of this report, activities in those titles not administered by the FHWA are not considered part of the FAHP.

[8]23 U.S.C. 144.

[9]P.L. 109-59, Section 1117.

[10]23 U.S.C. 148.

[11]P.L. 109-59, Section 1114(e)

[12]23 U.S.C. 106 (g), (h), and (i).

[13]Although authorization amounts are set for each program, Congress also established a "trigger" mechanism to keep highway authorizations in tune (aligned) with revenues (highway user taxes paid into the Highway Account of the Highway Trust Fund). This "revenue aligned budget authority" provision is described in detail in the "Appropriations" section.

[14]Two other forms of budget authority exist, borrowing authority and authority related to the use of offsetting receipts and collections. These are not discussed in this document.

[15]P.L. 109-59, Section 1405.

[16]23 U.S.C. 104(b).

[17]23 U.S.C. 118(a).

[18]P.L. 93-344, Section 401(d)(1)(B).

[19]23 U.S.C. 121.

[20]23 U.S.C. 104(f)(1).

[21]23 U.S.C. 104(f)(2). The funds must be made available by the States to MPOs designated to carry out provisions of 23 U.S.C. 134.

[22]Section 104(a) of Title 23, U.S.C. was amended by Section 1103 of SAFETEA-LU to provide direct authorizations for administrative expenses. Previously, an amount (up to 1.5 percent under TEA-21) was deducted from designated programs for administering the provisions of Title 23, U.S.C. This "administrative takedown" was used to pay salaries of FHWA employees, travel expenses, supplies, office space, etc.

[23]23 U.S.C. 104(b)(1)(A)

[24]23 U.S.C. 140(b).

[25]23 U.S.C. 118(a).

[26]23 U.S.C. 505.

[27]23 U.S.C. 133 (d)(2).

[28]23 U.S.C. 133(d)(3)(A).

[29]23 U.S.C. 133(d)(3)(B).

[30]23 U.S.C. 133(d)(3)(A).

[31]23 U.S.C. 144(g)(2). A Federal-aid highway is any highway eligible for Federal assistance under Chapter 1 of Title 23 other than a highway functionally classified as a local road or rural minor collector.

[32]P.L. 109-59, Section 1101(b).

[33]P.L. 109-59, Section 1702.

[34]P.L. 109-59, Section 1934.

[35]23 U.S.C. 105.

[36]23 U.S.C. 118(b)(2).

[37]Ibid.

[38]23 U.S.C. 144(e).

[39]23 U.S.C. 104 (g) and (k)

[40]23 U.S.C. 106(a).

[41]23 U.S.C. 120.

[42]23 U.S.C. 120(a).

[43]23 U.S.C. 120(b).

[44]23 U.S.C. 120(e).

[45]Funds authorized under Section 1502 of SAFETEA-LU, as well as up to 10% of a State's NHS, IM, STP, and/or CMAQ apportionments, may be used to fund Highways for LIFE projects at a Federal share of up to 100% of the cost of construction of the project.

[46]23 U.S.C. 143.

[47]23 U.S.C. 120(c).

[48]P.L. 105-178, Section 1302(2).

[49]23 U.S.C. 121(b)

[50]23 U.S.C. 323.

[51]23 U.S.C. 120(j)

[52]23 U.S.C. 120(k).

[53]23 U.S.C. 133(e)(5)(C)(ii).

[54]23 U.S.C. 120(l).

[55]23 U.S.C. 206(f)

[56]23 U.S.C. 121(c).

[57]P. L. 101-453.

[58]P.L. 109-59, Section 8003.

[59]P.L. 109-59, Section 1102(b).

[60]P.L. 109-59, Section 1102

[61]P.L. 109-59, Sections 1102(c)(1) and (2).

[62]P.L. 109-59, Section 1102(c)(3).

[63]P.L. 109-59, Section 1102(c)(4).

[64]P.L. 109-59, Section 1102(c)(5).

[65]P.L. 109-59, Section 1102(e)

[66]P.L. 109-59, Section 1102(f).

[67]The amount authorized for the National Scenic Byways program in SAFETEA-LU was $30 million, but the authorization was reduced to $29,700,000 by a 1% rescission required by section 3801 of Division B of P.L. 109-148.

[68]P.L. 109-59, Section 1102(c)(6).

[69]P.L. 109-59, Section 1102(d).

[70]P.L. 93-344, enacted July 12, 1974.

[71]DOT appropriations acts had various titles over the years. For purposes of this book, "DOT Appropriations Act" is used as a generic term to describe annual DOT appropriations acts, regardless of title.

[72]FHWA received $20 million in FY 2006 appropriated budget authority for the Appalachian Development Highway System (ADHS) in P.L. 109-115, the Department of Transportation Appropriations Act, but this amount was subject to the 1% across-the-board cut described in the next endnote. In addition to ADHS, there were supplemental 2006 appropriations for the Emergency Relief Program of $2,750,000,000 in P.L. 109-148 and $702,362,500 in P.L. 109-234.

[73]The Department of Defense Appropriations Act, 2006 (P.L. 109-148), contains a 1 percent across-the-board rescission of obligation limitation imposed for FY 2006. The resulting $360 million reduction brings the FY 2006 Federal-aid obligation limitation down to $35.672 billion.

[74]Balanced Budget and Emergency Deficit Control Act of 1985 and Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987.

[75]FY 2006 actuals as shown in the President's 2008 Budget. Note: Interest on debt included in mandatory category.

[76]The time period and the coverage of the spending caps have been modified several times since enactment of the BEA1990.

[77]The BEA1990 set a single cap for all discretionary spending. Subsequently, the Budget Enforcement Act of 1997 broke the discretionary cap into three segments—defense discretionary spending, violent crime reduction spending, and all other discretionary spending, with the Federal-aid Highway Program falling in the last category. The TEA-21 established separate discretionary spending caps for the highway and transit programs. The firewall for defense spending expired at the end of FY 1999, and the violent crime reduction category was eliminated after FY 2000.

[78]SAFETEA-LU section 8001 codified at 2 U.S. C. 901. The only other firewall remaining is for conservation spending which is scheduled to expire after FY 2006.

[79]To effect the House rule, a point of order is made during floor proceedings to assert that the rules of procedure are being violated. The point of order halts proceedings while the presiding officer rules on whether or not it is valid. If the point is found to be valid, consideration of the bill, resolution or amendment would be halted.

[80]23 U.S.C. 110.

[81]The Federal-aid Primary and Secondary Systems were the roads eligible for Federal assistance at the time.

[82]A portion of the fuel excise tax (4.3 cents per gallon) will continue to be imposed after that date, but it will not be credited to the Highway Trust Fund.

[83]The Surface Transportation Assistance Act of 1982 provided that one-ninth (about 1 cent per gallon) of the fuel tax revenue would be deposited in the Mass Transit Account. This provision has been amended several times. Effective October 1, 1997, the deposit to the Mass Transit Account is 2.86 cents per gallon of most taxable highway motor fuels.

[84]Effective January 1, 1987, the Leaking Underground Storage Tank Trust Fund was established and an additional tax of 0.1 cent per gallon on highway and other fuels was dedicated to this fund.

[85]In the case of gasohol and certain other alcohol blends, the 2.5 cents per gallon continued to be directed to the General Fund.

[86]Motor Carrier Safety Act of 1984; codified in 49 U.S.C. 521.

[87]26 U.S.C 9503(b)(5).

[88]26 U.S.C. 9601. While the law requires deposits to be made monthly, the practice is to make such deposits twice each month.

[89]26 U.S.C. 9503(f).

[90]The Byrd Amendment is named for Senator Harry Flood Byrd of Virginia who was a member of the Senate Finance Committee at the time the Highway Revenue Act of 1956 was being debated. His concern for the future solvency of the Highway Trust Fund led to the amendment of the bill.

[91]P.L.109-59, section 11102

[92]26 U.S.C. 9503(d).

[93]The current version of the Byrd Test, which allows 4 years of future receipts to be “counted on” does not serve as an effective safeguard against Highway Account cash shortfalls. Recent analyses show that the Highway Account could experience significant cash shortfalls without triggering the Byrd Test’s reduction of highway apportionments.

[94]This is a rare occurrence. The last such action was in 1980 when an additional $1.4 billion in liquidating cash was provided by the Supplemental Appropriations and Rescission Act, 1980 (P.L. 96-304).

[95]Previously called the Aquatic Resources Trust Fund

[96]26 U.S.C. 9503(c).

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