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INTRODUCTION

Because of the continuing demand for information concerning the financing of Federal-aid highways, the Federal Highway Administration prepared a report describing the basic process involved. This report, "Financing Federal-Aid Highways," was first published in January 1974 and was updated four times: "Financing Federal-Aid Highways--An Amplification, July 1974," "Financing Federal-Aid Highways--Revisited, July 1976," "Financing Federal-Aid Highways, May 1979," and "Financing Federal-Aid Highways, October 1983."

Enactment of Public Law (P.L.) 100-17, the Surface Transportation and Uniform Relocation Assistance Act of 1987, the 1984 Deficit Reduction act, and other acts made it necessary to update the October 1983 version to reflect changes in the financing procedures brought about by those Acts. In a few cases, "old" rules may still apply to already authorized funds. However, all the financing provisions described in this report are applicable to new authorizations beginning with Fiscal Year (FY) 1987.

As shown in the table of contents, the report follows the financial process from inception in an authorization act to payment from the Highway Trust Fund, and includes discussion of the congressional and Federal agency actions which occur throughout.

A glossary of terms used in this report is contained in Appendix A.

CONGRESSIONAL PROCEDURES

The first step, and the most crucial, in financing the Federal-aid highway program is the authorizing legislation, which is commonly called the highway act. In 1978, 1982, and 1987, highway legislation was passed as part of comprehensive surface transportation acts. This is not necessarily true for all Federal programs, since for many, as explained later, a second or appropriations act is of equal or greater importance to their financing sequence.

Hearings

As a springboard for drawing up authorizing legislation, Congress holds hearings on the Federal-aid highway program, usually about 9 months to a year before new funding is needed. The purpose of the congressional hearings is to give interested organizations, citizens, Members of Congress, and the executive branch an opportunity to publicly present their views on the future direction of the highway program. Testimony, oral or written, may be by invitation or by request of congressional committees or at the initiative of the witness.

The Surface Transportation Subcommittee of the Committee on Public Works and Transportation in the House of Representatives and the Subcommittee on Water Resources, Transportation, and Infrastructure of the Committee on Environment and Public Works in the Senate have primary jurisdiction for a major part of the Federal-aid highway program and are responsible for conducting hearings on and subsequently drafting highway legislation. The jurisdiction of the House committee extends to mass transit and safety. In the Senate, however, the Commerce, Science, and Transportation Committee handles safety while the mass transit area comes under the Banking, Housing and Urban Affairs Committee. Trust Fund and revenue matters fall in the purview of the House Ways and Means Committee and the Senate Finance Committee. Thus, hearings and/or bills involving highway matters can originate from a variety of sources in the Congress.

Draft Bills

After hearings are completed, the staffs of the subcommittees prepare their respective versions of new highway legislation. Each of these drafts is often based on information obtained during the hearings or on bills submitted earlier in that session of Congress that were referred to the above named committees. The initial bills may have been introduced in several ways, including:

1. Introduction by various Members of Congress who have an interest in the program. Usually these bills concern only one facet of the program such as bridge replacement and rehabilitation. However, some propose comprehensive changes in the program.
2. Introduction of a comprehensive Administration (executive branch) bill prepared by the Department of Transportation. The Administration's bill is often introduced "by request," signifying that the sponsors in Congress were asked to introduce it and do not necessarily endorse all provisions of the bill.
3. Introduction of a comprehensive bill sponsored by the chairman or top-ranking members of the full committee or subcommittee combining the views from several sources. This bill often serves as the basis for the hearings and goes on to be used as the primary document in preparing the draft legislation.

It is important to keep in mind that the Senate and House work independently on their separate highway bills, each with its own schedule for hearings, committee meetings, etc. Not until a conference committee reaches agreement (discussed below) is there a single highway bill.

Committee Action

The subcommittees then "mark up" (amend) the staff-prepared draft bills by adding and dropping provisions and by compromising on any controversial provisions. When a bill is finally voted on favorably by the subcommittee, it is submitted for approval to the parent committee--the Environment and Public Works Committee in the Senate and the Public Works and Transportation Committee in the House.

The full committee considers the bill, alters it, or if it desires, prepares its own version, although the latter is rarely done. Once voted upon and approved by the entire committee, the bill, usually entitled the "Federal-Aid Highway Act of 19XX (where XX is the year of passage), is sent, "reported out" to the full chamber of its respective body of Congress.¹ Accompanying the bill, when it is "reported out," is a committee report which expands upon the legislative language in the bill and is used by the executive branch and the courts to determine congressional intent. There is a committee report for the Senate bill and the House bill.

1 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 do not affect the typical flow of a highway bill and are omitted for brevity.

Floor Action/Conference Committee

On the floors of the House of Representatives and the Senate the bills are debated, amended, and voted upon. Assuming both the Senate and House bills are passed by their respective bodies and contain different provisions, which they usually do, a conference committee is formed to reconcile the differences and arrive at a mutually acceptable compromise. Members of the conference committee are formally appointed by the Speaker of the House and the Presiding Officer of the Senate, based on recommendations from the committee chairmen. The conference committees are thus comprised of members from both the House and Senate committees that have jurisdiction over the areas encompassed by the bill.

The conference committee discusses the merits of the different proposals, airs the disagreements, and arrives at a satisfactory compromise. It is worthwhile to mention that the conference committee deliberations, the mark-up sessions of the full committees and subcommittees, as well as the initial hearings, are usually open to the public.

Enactment

Upon agreement in conference, the bill is sent back to each body of Congress for final passage. Accompanying the conference bill is a conference report, which, like the committee reports, expands upon the legislative language. Amendments to conference bills are usually not permitted--they must be voted on in their entirety exactly as presented by the conferees. When the bill has passed both the House and Senate in identical form, it is transmitted to the President for his signature.

Although the above discussion is admittedly simplified, it does reflect the principal steps in the congressional process. It is recognized that the conferees may not be able to reach agreement (as happened in 1972 and 1986) or that the President may veto the highway bill (as happened with the 1987 Act), etc. However, it is beyond the scope of this report to describe every possible deviation entailed in making a bill become law. It is sufficient to state that digressions do occur.

Figure 1 displays the typical process described above.

Title 23 of the United States Code

As new highway acts are passed, Title 23 of the United States Code is amended. The United States Code (U.S.C.) contains the Federal laws which have been codified or arranged in a systematized manner. Title 23 of the Code is titled "Highways" and includes most of the laws that govern the Federal-aid highway program. This codification embodies substantive provisions of law that Congress considers permanent and need not

CONGRESSIONAL PROCEDURES (SIMPLIFIED, TYPICAL PROCESS)

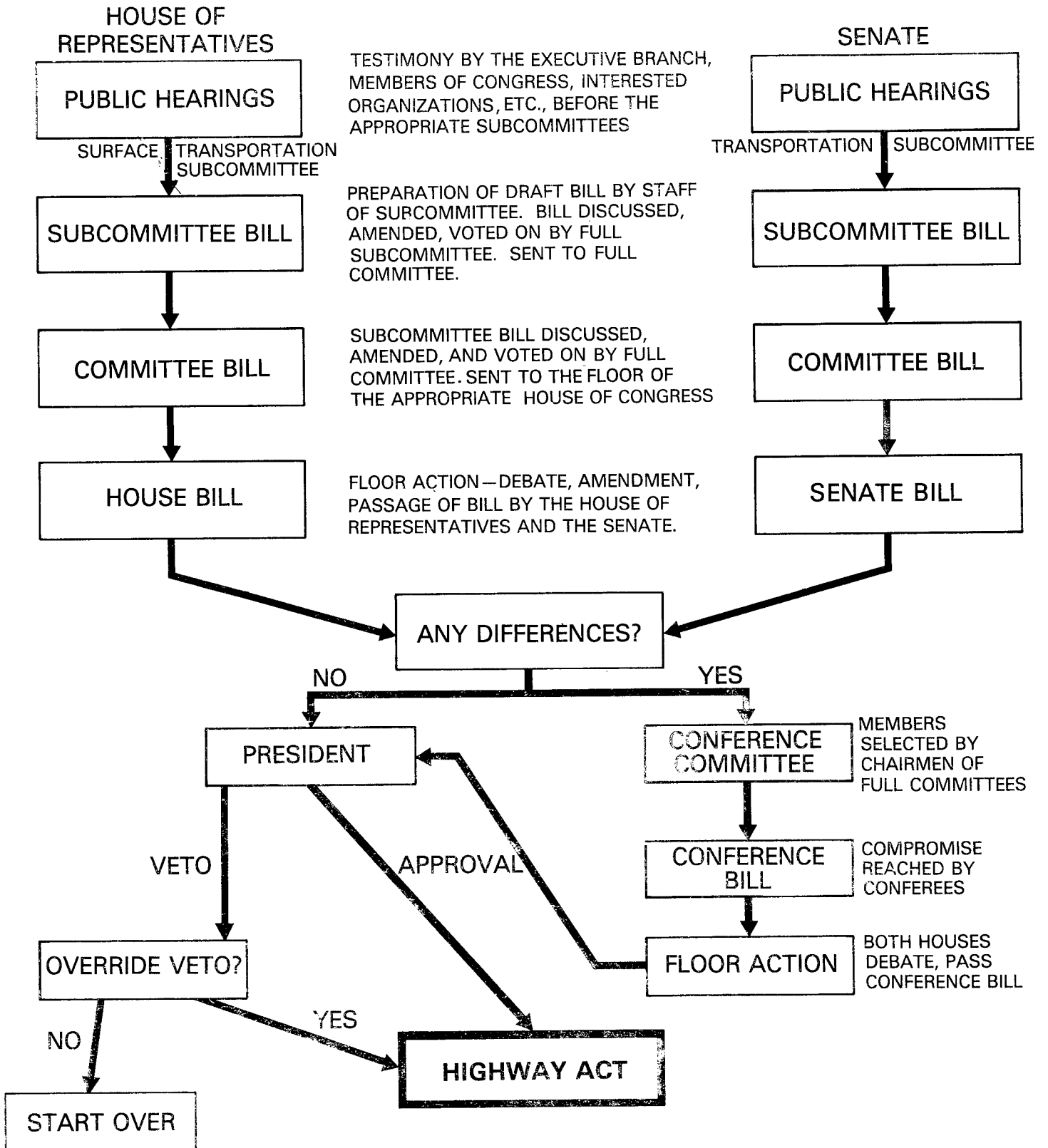


Figure 1

be reenacted in each new highway act. Each highway act specifies which sections of Title 23 are to be amended, repealed, or added. Title 23 does not contain requests for studies, special projects, etc., and most authorizations are not codified. Thus, the code effectively contains only those continuing provisions of highway law.

For various reasons, certain substantive provisions have not been incorporated into Title 23, but remain in effect as still valid sections of previous acts. Thus, Section 108 of the Federal-Aid Highway Act of 1956 is the source law for Interstate System authorizations. In addition, codification into Titles is not practiced governmentwide. For example, the Urban Mass Transportation Act of 1964, as amended, is still the primary source law for the major Federal mass transportation assistance programs.

FEDERAL-AID HIGHWAY ACT

The congressional procedures described in the previous section relate generally to the development of Federal-Aid Highway Acts, the legislation of greatest importance to the Federal-aid program, although the procedures would relate to other types of legislation, as well. These acts, often known as authorizing or substantive legislation, are distinct from appropriations acts which will be discussed later. Highway acts are passed periodically, when they are needed, and the most recent one was included in the comprehensive Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA of 1987), which became effective on April 2, 1987, when Congress overrode the President's veto.

Highway acts range from a stop-gap funding bill such as the one enacted October 15, 1982, to major multi-year bills, such as the Surface Transportation Assistance Act of 1982 (STAA of 1982) and the STURAA of 1987. Although they may vary in scope, highway acts will generally contain one or more of the following elements: (1) authority to start new programs or change existing ones; (2) special requests; and (3) specific funding (authorizations) for the many categories of highway assistance. The STURAA of 1987 (P.L. 100-17) contained five Titles: I--Federal-Aid Highway Act of 1987; II--Highway Safety Act of 1987; III--Federal Mass Transportation Act of 1987; IV--Uniform Relocation Act Amendments of 1987; and V--Highway Revenue Act of 1987.

Programs

It will be useful to understand the meaning of "program" as it is used in this report. First, "Federal-aid highway program" is an umbrella term generally referring to all activities funded through the Federal Highway Administration (FHWA) and administered

by the States' highway or transportation agencies. Second, the term "program" is also used to refer to one of the many components or categories that make up the overall Federal-aid highway program. Each category is separately funded. For example, within the Federal-aid highway program, there is specific funding for a bridge replacement and rehabilitation program, a primary program, an Interstate program, an Interstate 4R program, etc.

In addition, there are many important activities that do not have separate funding but are eligible under one or more of the programs. For example, Federal-aid highway program funds can be spent for replacement housing, preliminary engineering, fringe and corridor parking, etc., since they are eligible activities under several programs. Because the legislation does not single out these activities for specific funding, they are not considered programs in the financial sense of the term as used in this report.

The highway act establishes programs by identifying the scope of the problem to be addressed by a program and by setting the ground rules under which funds may be used (what activities are eligible, how the funds are to be distributed, how long the funds are available, etc.). These can be changed by subsequent highway acts. Sometimes, other acts (e.g., Appropriations Acts and environmental legislation) will make changes to highway law.

Program Changes

As pointed out earlier, highway acts, such as the STURAA of 1987, are the primary instruments used by Congress to shape and redirect the Federal-aid highway program. This can be accomplished in the following ways (illustrations are from the STAA of 1982 and the STURAA of 1987 and are only examples):

1. Adding New Programs. One hundred fifty-two demonstration projects are authorized, each directed toward particular localities.² The Strategic Highway Research Program is established and financed through a one-quarter percent takedown from certain authorizations.³
2. Eliminating Programs. The STURAA of 1987 repealed the Safer Off-System Roads Program.⁴

2 P.L. 100-17, STURAA of 1987, Section 149.

3 Ibid., Section 128.

4 Ibid., Section 133.

3. Modifying Characteristics of Programs. States are allowed to overmatch, i.e., contribute amounts in excess of the normal State share on all Title 23 projects.⁵ Availability period for Interstate 4R funds is reduced from 4 years to 3 years.⁶
4. Modifying Requirements. The 1982 STAA provision requiring 40 percent of primary, secondary, and urban funds be used for 4R type projects was not continued.⁷ Allows States to raise speed limit on Interstate routes outside urbanized areas to 65 m.p.h.⁸

Requests and Exceptions

Congress often will write sections into legislation that will contain special requests for studies to be conducted by the Administration. Studies are often the result of an impasse among Members regarding the best solution to a problem or a lack of sufficient information to formulate a policy. The 1987 STURAA requires 16 studies to be carried out. Reports also are required on nine demonstration, pilot, and special projects.⁹

Congress also occasionally makes one-time modifications to programs, which do not change the character of the program but actually provide exceptions to the law, usually for the benefit of a particular project. For example, Sections 127 and 128 of the STAA of 1982 permitted projects which normally would not be classified as Interstate completion projects to be included in the Interstate Cost Estimate (ICE). The special exemptions were designed to make these projects eligible for Interstate construction funds; otherwise the source of their funding would have been the Interstate 4R program as it is for other projects of this type.

Authorizations

The third kind of provision in highway acts, specific funding of the highway programs, relates most directly to the subject of this report. Federal-aid highway acts have normally been the vehicle for providing funding, termed "authorizations," for the

5 Ibid., Section 117.

6 Ibid, Section 133 (b)(11).

7 No provision in 1987 STURAA, thereby allowing the requirement to end.

8 Ibid, Section 174.

9 Pilot projects are another way Congress uses to gain information for use in determining whether or not to establish or change programs. Two are included in this Act: Toll Facilities (Section 120) and the Older Driver Pilot Program (Section 208(d)).

Federal-aid highway program. It is these authorizations that spell out the amount and purpose for which Federal-aid funds for highways are to be expended and lead directly to the financing procedures of the program.

Appendix B-1 lists the programs authorized by the 1987 STURAA (and other acts) and the amounts provided for FY's 1987-1991.

FEDERAL-AID FINANCING PROCEDURES

Authorizations

The authorizations contained in highway acts are the amounts of funds that the Secretary of Transportation, acting through the Federal Highway Administration, can obligate on behalf of the Federal Government. They are the upper limits on the commitments that the administering agency can make. Critical to understanding the financial aspects of the Federal-aid highway program is a knowledge of when these commitments can occur. A discussion of the distinction between budget authority and contract authority is of particular importance to this understanding.

Budget Authority. The license to proceed with Federal programs is generally called budget authority. Most Federal programs require a two-step process to implement a program. The initial step is the congressional passage of authorizations. 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 used, only after passage of a second piece of legislation, the appropriations act. In this second act, the Congress will usually appropriate an amount to be used for the program that could be less than, but cannot exceed, the amount contained in the authorizing legislation. It is at this point, through the provision of appropriations, that the program may proceed. In other words, "budget authority"--the approval to distribute, spend, loan, or obligate money--has been granted through the appropriations act. Figure 2 shows the typical procedural steps for these appropriated budget authority programs.

Contract Authority. Most programs within the Federal-aid highway program, do not require this two-step authorization-appropriation process to commit or obligate Federal funds. Through what is termed "contract authority," which is another type of budget authority, sums authorized in the Federal-aid highway acts are made available for

Appropriated Budget Authority Programs

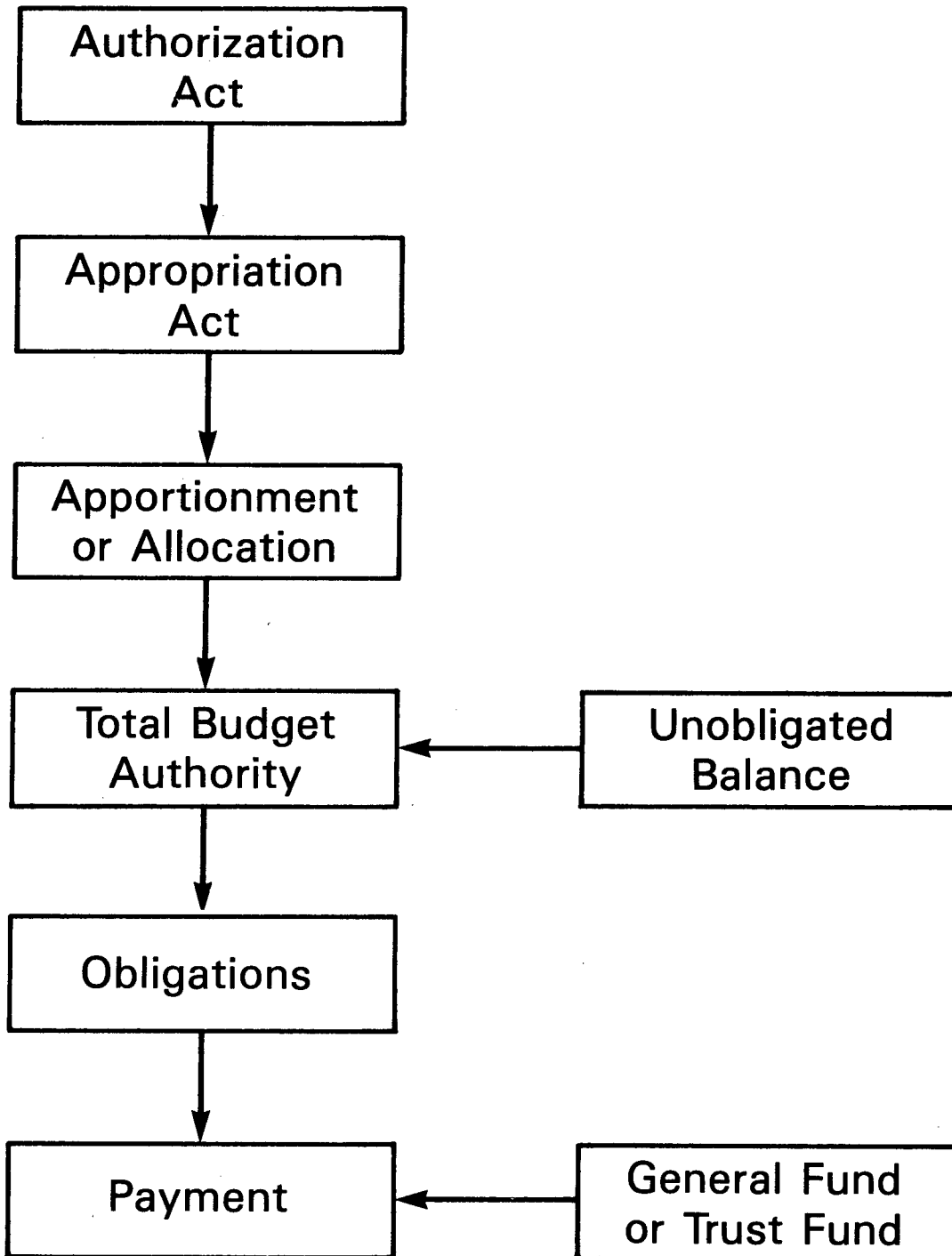


Figure 2

obligation without an appropriation action. 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 (as soon as 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.

To have contract authority, a highway program must meet two criteria. First, it must be encompassed in Chapter 1 of Title 23, or its authorizing language must refer to Chapter 1. The primary wording conferring contract authority states that authorized sums be "apportioned" (divided among the States) by a specified date and "On or after the date (of apportionment)...the sums apportioned...shall be available for expenditure..."¹⁰ Then, 23 U.S.C. 106(a) states that approval of the plans, specifications, and estimates for a project constitutes "... a contractual obligation of the Federal Government for the payment of its proportional contribution thereto." Both of these actions (apportionment and project approval) can take place without an appropriations action by Congress.

The second requirement for contract authority is that the program must be financed from the Highway Trust Fund. This link between the Fund and contract authority programs has existed only since passage 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 seeks to reduce the number of programs that receive budget authority prior to passage of appropriations acts--the legislation by which Congress annually meters spending. Obviously, contract authority programs, such as the Federal-aid highway program, bypass this appropriations process. Congress recognized this but realized that some Federal programs require advance knowledge of the size of future funding commitments to operate smoothly from year to year and further that such funding is available because the source is a user-related dedicated tax rather than general revenues. Thus, the Budget Act permits several exceptions to the standard two step process. One of these is for programs whose new budget authority is derived from trust

10 23 U.S.C. 118(a).

Contract Authority Programs

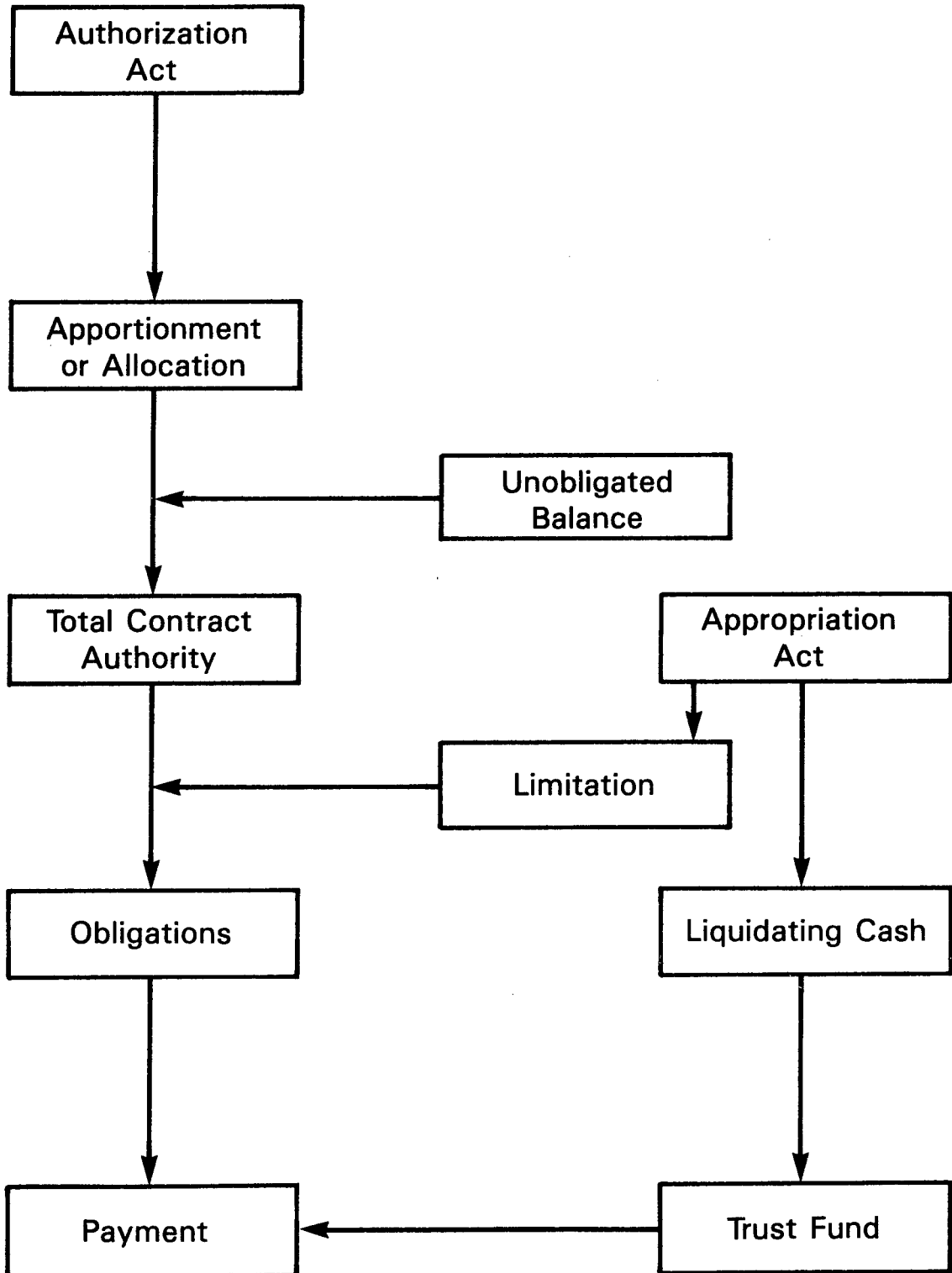


Figure 3

funds, 90 percent or more of whose receipts are user-related taxes.¹¹ The Federal-aid highway program falls into this category since it is supported by the Highway Trust Fund. Here the connection was established between the continuation of contract authority for the program and the existence of the Fund.

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

Reimbursable Program

To have a basic understanding of the financial procedures of the program, it is essential to know that the Federal-aid highway program is a reimbursable program; that is, the Federal Government only reimburses States for costs they have incurred. The authorized amounts distributed (apportioned) to the States represent a line of credit upon which States may draw as Federal projects are advanced. (The commitment of the apportionments or allocations is done in a subsequent step called "obligation," which will be discussed in more detail later.) No Federal cash is disbursed at this point. The States generally start the Federal projects using their own money, i.e., they provide front-end financing for projects and receive cash for the Federal share of the project's cost only as the work is completed.

The remainder of this chapter will discuss, step-by-step, the procedures in distributing authorized amounts to the States.

Deductions

Before the authorizations are released (distributed), three deductions are made. The first of these is a statutory allowance of "not to exceed 3 3/4 percentum,"¹² for administering the provisions of Title 23 of the U.S.C. and for conducting certain research.

The "not to exceed 3 3/4 percent" deduction is made from most of the authorized sums that are to be divided among the States. The law in this instance is flexible and although 3 3/4 percent may be deducted, the amount for the last several years has generally been less as the full deduction has not been necessary to administer the program. In FY 1987, for example, 1 3/4 percent was taken down.

11 P.L. 93-344, Section 401 (d)(1)(B).

12 23 U.S.C. 104(a).

This administrative deduction is used to pay the salaries of FHWA employees, reimburse travel expenses, pay for supplies, etc., and is also used for FHWA-sponsored contract research on highway construction, planning, design, etc.¹³ Research financed from these administrative funds is supplementary to that carried out by the States as discussed below.

Administrative funds for other programs are sometimes contained in separate provisions of law. For example, funds to administer the Department of Transportation motor carrier safety functions are provided in yearly appropriations acts. And, the highway safety program contains a provision which permits administrative deductions of "not to exceed five percentum"¹⁴ of the sums authorized.

The second deduction is used to finance the urban transportation planning activities mandated by 23 U.S.C. 134. This deduction is equivalent to one-half percent of the remaining authorizations of system funds (i.e., Primary, Secondary, Urban, Interstate, Interstate 4R) after the first deduction is made and is distributed to the States by its own apportionment formula.¹⁵ The third deduction is to finance the Strategic Highway Research Program (SHRP). The deduction is one-quarter of 1 percent of the authorizations (before considering any other deduction) for the Interstate Construction, Interstate 4R, Interstate Substitution, Primary, Secondary, Urban, Bridge, Railroad-Highway Crossing, and Hazard Elimination programs and is used for grants and payments to carry out research, development, and technology transfer activities strategically important to the national highway transportation system.¹⁶

In total, the deductions for FY 1987 for administration (1 and three-quarters percent), urban transportation planning (one-half percent), and SHRP (one-quarter percent) left approximately 97 1/2 percent of the funds authorized to be divided among the States. This percentage would change in subsequent years if the administrative percentage were to change.

13 23 U.S.C. 307(a) identifies the permissible research activities.

14 23 U.S.C. 402(c).

15 23 U.S.C. 104(f)(1) and (f)(2). Funds are apportioned to each State according to its percentage of the Nation's total urbanized population. A State receiving Minimum Allocation funds may use one-half percent of these funds for this purpose.

16 23 U.S.C. 307(d).

Although these are the only deductions applied program-wide, other funds may be withheld or are reserved for particular purposes. For example, \$225 million of the authorizations for the Bridge Replacement and Rehabilitation program must be reserved for allocation by the Secretary.¹⁷ Also, \$300 million of Interstate construction funds are set aside annually for the Interstate construction discretionary fund,¹⁸ and \$200 million of Interstate 4R funds are set aside each year for Interstate 4R discretionary projects.¹⁹

Apportionments and Allocations

Subsequent to the above deductions, the FHWA apportions, or divides, the remaining portion of the sums authorized for the various programs among the States. The apportionments are based on several formulas prescribed by law. For example, Urban System funds are apportioned to each State according to its percentage of the Nation's urban area population (places of 5,000 or more persons), Interstate System apportionments are based on the relative share of the cost to complete the system, etc. Appendix C-1 contains a list of apportionment formulas. Where funds are distributed by apportionment, every State is assured of receiving some portion of the amount distributed. Further, once an apportionment is made to a State, it can be taken away only by a legislative action by Congress.

At the time of apportionment if a State is in a penalty situation, a part of its apportionment may be withheld until the State comes into compliance with the law. For example, up to 10 percent of a State's primary, secondary, and urban funds may be withheld if more than 50 percent of the motor vehicles are exceeding 55 miles per hour.²⁰ Some penalties involve withholding an entire apportionment for a program. For example, all of a State's Interstate apportionment may be withheld if the State's weight laws for trucks on Interstate highways are not consistent with the Federal law.²¹

17 23 U.S.C. 144(g)(1).

18 23 U.S.C. 118(c).

19 23 U.S.C. 118(c)(2).

20 23 U.S.C. 154(f). Applies to highways posted at 55 miles per hour.

21 23 U.S.C. 127.

Apportionments are generally made on the first day of the fiscal year, October 1.²² At the time of an apportionment, certificates denoting the sums deducted and the exact amount of each apportionment are issued by FHWA. It is through these certificates that the States are officially notified of the opportunity to request that the Federal Government obligate funds for the subsequent repayment of debts incurred by the State.²³ Again, it is not cash which is apportioned; it is only new authority to incur obligations or additions to a State's available line of credit.

Most, but not all funds are distributed to the States in this manner. Some funding categories do not contain a legislatively mandated apportionment formula. Distributions of funds where there are no formulas in law are called allocations. In most cases, allocated funds are divided among the States using administratively determined formulas or criteria and/or criteria provided in law. Funds for such programs as Emergency Relief, Interstate Discretionary, and Bridge Discretionary are distributed using administrative criteria and/or criteria specified in law. Allocations of this type are not necessarily made to every State. And, 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. In an increasing number of cases, Congress directs how the funds are to be distributed by specifying that certain projects are to receive particular amounts of funding. This may be done either in highway acts or by including statements of congressional intent or desire in the committee reports accompanying the legislation. The 152 demonstration projects authorized in Section 149 of the 1987 STURAA are a prime example of congressional direction. These projects are distinct from apportionments in that their authorized funding is not distributed by formula. In the case of the Section 149 projects, funding can be reduced only by congressional action.

Appendix C-2 contains a list of allocated programs.

Earmarking

Federal highway legislation requires that certain sums be earmarked (set aside for special uses) once apportioned to the States. One and one-half percent of the major system and bridge apportionments can only be used for highway planning and research

²² 23 U.S.C. 104(b).

²³ For funding categories without contract authority, States may obligate the apportioned funds only to the extent that sums are provided in the Appropriation Acts. 23 U.S.C. 104(e) requires the Secretary of Transportation to give at least 90 days advance notice of the sums to be apportioned. However, this notice is for planning purposes only and does not constitute the granting of the ability to incur obligations.

activities.²⁴ These amounts are available to the States to conduct State-sponsored research and statewide planning activities. They may also be used to supplement the previously mentioned one-half percent urban transportation planning funds.

Individual categories may have other mandatory conditions. For example, not less than 10 percent of amounts authorized for highways (and certain other programs) must be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.²⁵ Other earmarkings are not required but may be made at the State's option. A State can elect to use an extra one-half percent of certain apportionments for highway planning and research activities.²⁶ Another one-quarter percent of certain apportionments may be used at the State's discretion for education and training of State and local highway department employees.²⁷

Availability

When new apportionments or allocations are made, the amounts are added to the program's unobligated balance of funds from previous years, (e.g., new primary funds are added to the existing balance of unobligated primary funds). This situation arises because Federal-aid highway funds are available for use, i.e., available for obligation, for more than 1 year. Their availability does not terminate at the end of the fiscal year as is the case with many other Federal programs. The availability period is specified in law.

The Interstate construction funds are available for 2 years. They are apportioned on October 1, one year in advance of the beginning of the fiscal year for which they are authorized,²⁸ and they remain available until the end of the fiscal year for which

24 23 U.S.C. 307(c)(2). Interstate, Interstate 4R, primary, secondary, urban, and bridge are the programs whose funds are earmarked for highway planning and research. The States may also use up to one and one-half percent of their Interstate Substitution and Minimum Allocation apportionments, if they wish.

25 P.L. 100-17, Section 106(c).

26 23 U.S.C. 307(c)(3). The optional not to exceed one-half percent for highway planning and research is earmarked from the primary, secondary, and urban apportionments.

27 23 U.S.C. 321(b). The optional not to exceed one percent for education and training is earmarked from the Interstate Construction, Interstate 4R, and Primary apportionments.

28 23 U.S.C. 104(b)(5)(A). In the past, Interstate construction funds could not be apportioned until the Interstate Cost Estimate was approved by Congress. The 1987 STURAA allows the Secretary, if Congress has not acted by October 1, to adjust the last ICE submitted and then apportion the funds.

authorized. A new provision in the 1987 STURAA allows a State to request that the availability period be reduced to 1 year for Interstate Construction funds apportioned prior to October 1, 1989. Interstate construction apportionments made on or after October 1, 1989, will be available until expended. Interstate 4R funds are also apportioned 1 year in advance although their period of availability is 3 years (see Figure 4).²⁹

Federal-aid funds for use on other than the Interstate System are apportioned on October 1, the first day of the fiscal year for which they are authorized.³⁰ Most of these non-Interstate construction funds are available "for a period of three years after the close of the fiscal year for which such sums are authorized. . . ." ³¹ Thus, they are available for 4 years (see Figure 4). Appendix B-2 lists the categories for which new or continued authorizations are provided by the 1987 STURAA and their period of availability.

Should a State not obligate a particular year's apportionment within the period of availability, the authority to obligate any remaining amount of that apportionment lapses--it is no longer available.³² No cash need be returned to the Federal Government since there was never any cash disbursed. Exceptions to this lapsing provision are sums apportioned for Interstate construction, Interstate 4R, Interstate Substitution (highways), and Bridge Replacement and Rehabilitation. Any of the Interstate construction funds still unobligated after 2 years are withdrawn from a State, but may be allocated to other States which have used up their own Interstate apportionment and still have projects ready to go. Thus, Interstate construction funds do not lapse but may be reassigned to other States as Interstate discretionary allocations. The Interstate 4R funds, which might lapse after 3 years, would be similarly redistributed as Interstate 4R discretionary allocations.³³ Any Interstate Substitute (highways) funds not used by a State after

29 23 U.S.C. 118(b).

30 23 U.S.C. 104(b).

31 23 U.S.C. 118(b).

32 Ibid.

33 Ibid.

Availability

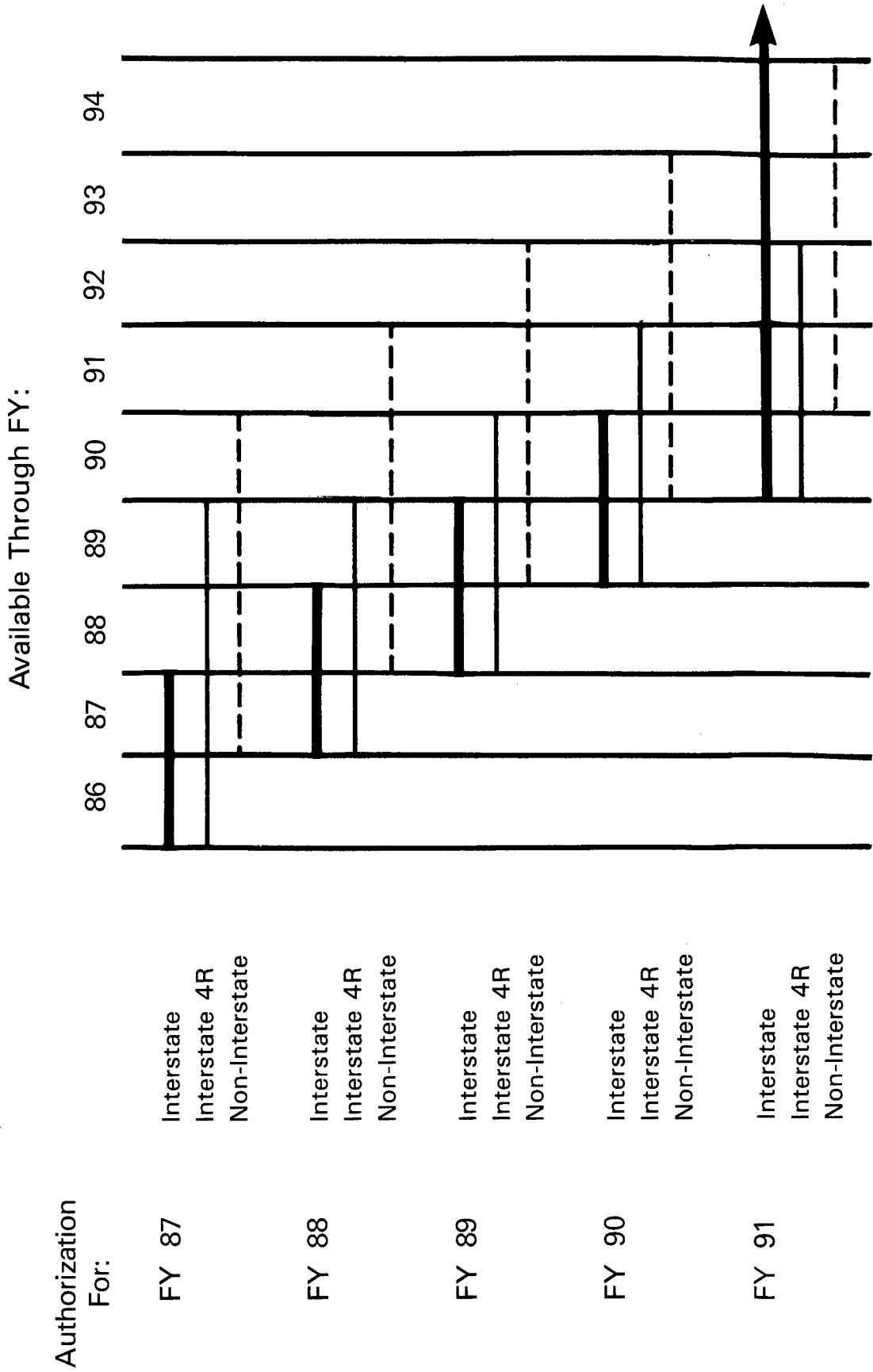


Figure 4

2 years are reapportioned or reallocated among States that have obligated all their funds.³⁴ In the unprecedented event that bridge funds are unused after 4 years, they also would be reapportioned by the Secretary.³⁵

Transferability

The level of authorizations reflect Congress' relative priority among the many Federal-aid funding categories, and the apportionment formulas are intended to reflect the relative needs of the States for each authorization. Yet it is impossible to arrive at a formula for each program that would provide each State with an amount of funds that precisely reflects actual needs. To provide for flexibility in the use of specific sums, Federal law permits transfers to be made among certain funds.

Primary/Secondary/Urban. Funds apportioned to the Federal-aid primary system may be transferred for use on the Federal-aid secondary system and vice-versa. However, the amounts transferred may not increase or decrease the original apportionment for such system by more than 50 percent.³⁶ This effectively limits the amount which can be transferred to 50 percent of the smaller of the two apportionments.

Primary system and urban system apportionments may be transferred from one category to the other in the same manner.³⁷ The law does not provide for direct transfer from the urban system to the secondary system or vice versa and also prevents any indirect transfer between the two systems during a year.³⁸

All of the above transfers may be made upon request of the State highway agency and approval by the Secretary of Transportation and the Governor of the State.

Within the urban program in a State, attributable allocations from urbanized areas of 200,000 or more population may be transferred to another urbanized area in the State or to the State for use in any urban area at the request of the Governor and with approval of the affected local officials and the Governor.³⁹

34 23 U.S.C. 103(e)(4)(E)

35 23 U.S.C. 144(e).

36 23 U.S.C. 104(c)(1) and (d)(1).

37 23 U.S.C. 104(c)(2) and (d)(2).

38 23 U.S.C. 104(c)(2).

39 23 U.S.C. 104(c)(2).

Safety Programs. Transfers may also be made among the following safety programs: Highway Bridge Replacement and Rehabilitation, Hazard Elimination, and Rail-Highway Crossings. Not more than 40 percent of the amount apportioned to a State may be transferred. However, up to 100 percent of any of the above apportionments may be transferred if a State shows, and the Secretary agrees, that the purposes of that program have been achieved.⁴⁰

Interstate/Interstate 4R. A State may transfer an amount equivalent to the cost to complete its open-to-traffic Interstate segments from its Interstate construction funds to its Interstate 4R apportionment or its primary apportionment. Subsequent estimates of Interstate construction costs will be reduced by amounts transferred.⁴¹

A State also is allowed to transfer any of its Interstate 4R apportionment that is in excess of its needs for that program to its primary apportionment. The State can transfer up to 20 percent of its Interstate 4R apportionment to the primary apportionment without having to show it is in excess of needs. The Federal matching share of the transferred funds will be 75 percent.⁴²

Figure 5 illustrates the possible transfers.

Obligations

The term "obligation" has been used frequently. An obligation is a commitment of the Federal Government to pay, through reimbursement to the States, the Federal share of a project's eligible cost. The commitment is made when FHWA approves a State's proposal to use part of its total apportionment or allocation on a particular project. The FHWA Division Administrators have been delegated the authority to enter into these contractual agreements for reimbursement on behalf of the United States Government.

Obligation is a key step in financing; obligated funds are considered "expended" even though no cash is transferred. This is illustrated by the fact that funds are protected from lapsing when they are obligated.⁴³ Incurring an obligation is similar to the use of a credit card. The holder of the card is obligated to reimburse the credit card company

40 23 U.S.C. 104(g).

41 23 U.S.C. 119(d).

42 23 U.S.C. 119(f).

43 23 U.S.C. 118(b).

Transferability

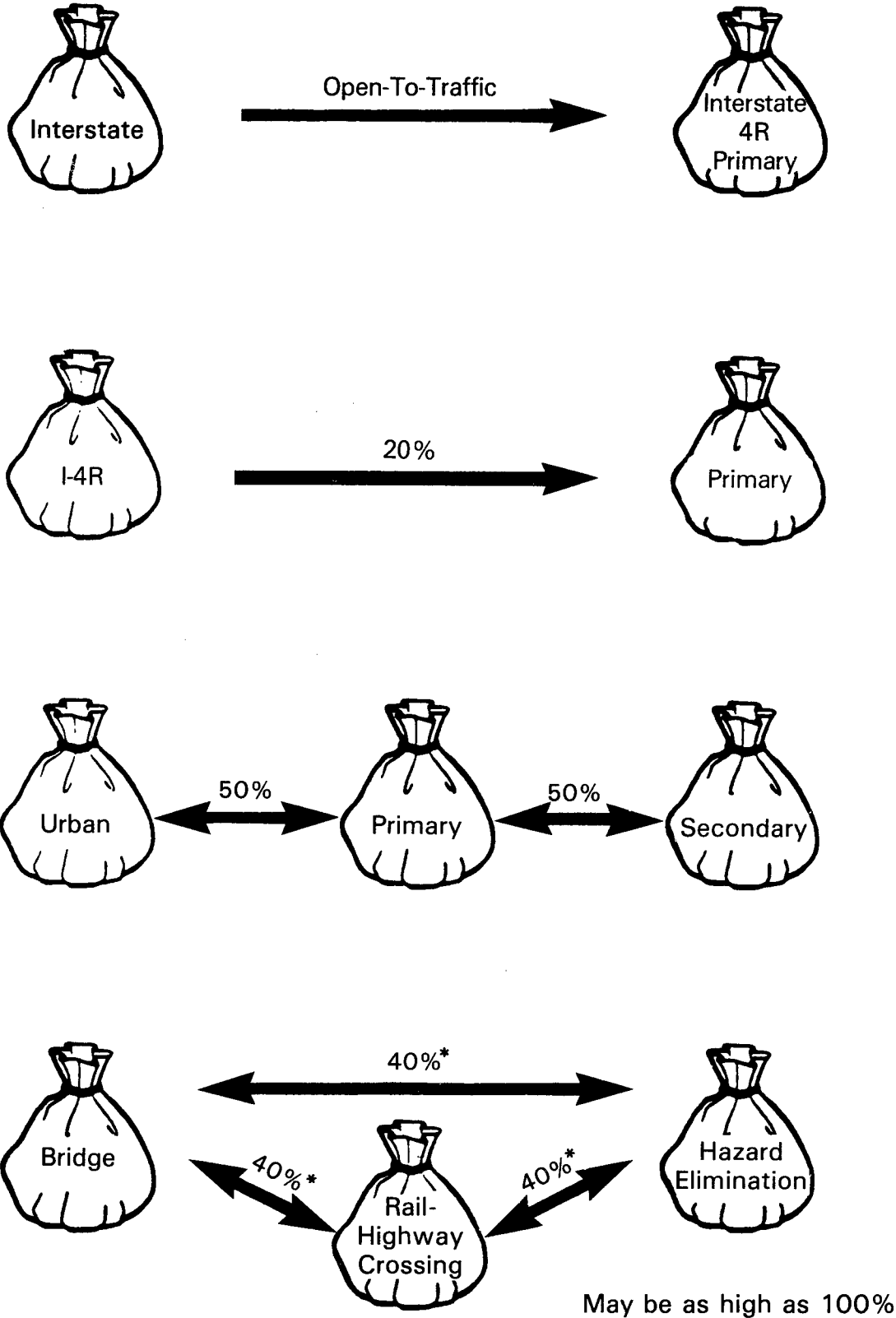


Figure 5

when a purchase is made. Although no cash has changed hands, the money is as good as spent when the holder signs the charge receipt. Likewise, the Federal Government must eventually provide the cash to reimburse the States, once an obligation is made.⁴⁴

Hence, obligation is the key step in the financing process which can be controlled by the Federal budgeting process. If such controls are necessary, they are usually achieved by the imposition of limitations on the program obligations (discussed later).

Federal Share

With a few exceptions, the Federal Government does not pay for the entire cost of construction of Federal-aid highways. Federal funds are normally "matched" with State and/or local government funds to account for the necessary dollars to complete the project. The maximum Federal share is specified in the legislation authorizing the program. Interstate System and safety construction projects are normally funded 90 percent Federal/10 percent State, bridge projects at a 80/20 ratio, and most other projects at a 75/25 ratio. States with large amounts of Federal lands have their Federal share of certain programs increased in relation to the percentage of their total land area that is under Federal control.⁴⁵ A State may contribute more than the normal match (thereby decreasing the Federal share) for all projects covered under 23 U.S.C.⁴⁶ Appendix B-2 shows the Federal share payable for the programs authorized by the 1987 STURAA.

Reimbursement

As mentioned previously, the Federal-aid highway program is a reimbursable program; what is apportioned to the States is not cash but the authority to incur obligations. It is up to the States to provide the initial cash to get a project underway. The project need not be completed, however, before the State begins to receive reimbursement. Depending upon the type of project, the time elapsing from obligation to reimbursement can vary from a few days to several years. Progress payments are permitted as long as a project agreement has been executed pursuant to 23 U.S.C. 110. The payments must not exceed the Federal share of the total cost incurred for work done up to the date of the voucher.

⁴⁴ 23 U.S.C. 106(a).

⁴⁵ 23 U.S.C. 120 and 144.

⁴⁶ 23 U.S.C. 120(n).

Therefore, the normal sequence of events is as follows:

1. Work done by a contractor.
2. Payments to the contractor by the State.
3. Vouchers by the State to the FHWA division to review and approve.
4. The FHWA regional certifying officer certifies the State highway department's claim for payment.
5. Certified schedules are entered into the Treasury Financial communications System.
6. Federal share of the project cost transferred directly from the Treasury Department to the State's bank account via electronic fund transfer.

The sequence repeats, often beginning again before the previous round is completed. This is illustrated in Figure 6.

LIMITATION ON OBLIGATIONS

The foregoing discussion has described the routine procedures for financing Federal-aid highway programs that have contract authority--authorizing legislation, apportionments, obligations, and reimbursements. Because of contract authority, the flow of these program funds is not directly affected by the annual appropriations process. But this very benefit which permits a smooth and stable flow of Federal aid to the States 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 on an annual basis. But the highway program, with multiple-year authorizations and multiple-year availability of funds, is exempt from this annual review. The question arises--how can the Federal-aid highway program be covered under annual Federal budget decisions?

The answer in recent years has been to place a ceiling, or limit, on total obligations that can be incurred for Federal-aid highway programs during the year. By controlling obligations annually, it is believed that the program may be made more responsive to prevailing economic policy. Yet, a limitation does not affect the scheduled apportionment of Federal-aid highway funds upon authorization or the eventual obligation of those funds in that or future fiscal years.

Reimbursement

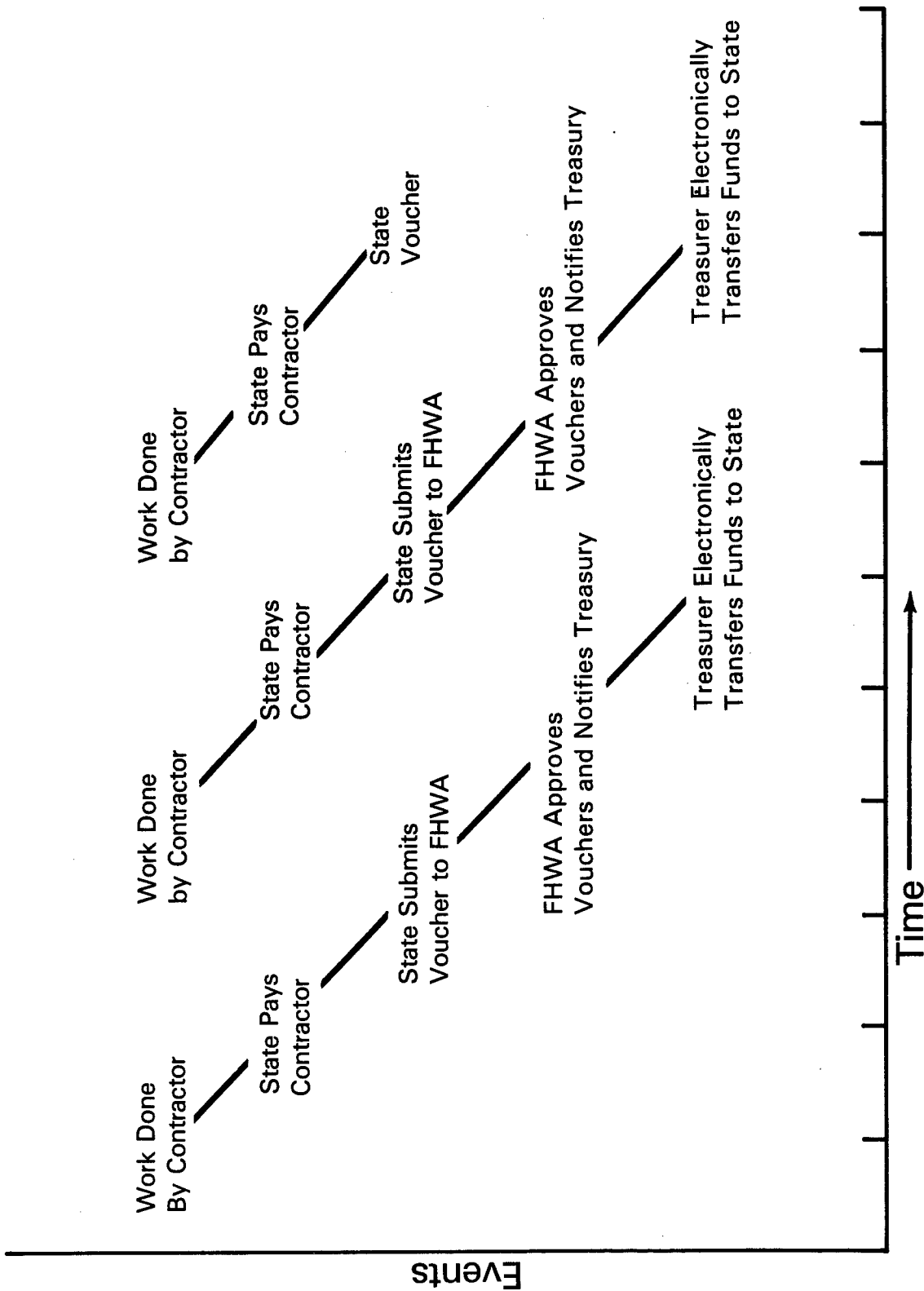


Figure 6

Operation

A limitation on obligations acts as a ceiling on the sum of all obligations within a specified time period, usually a fiscal year. Because of multi-year availability and the varying obligation rates among States and programs, it would be difficult administratively to keep track of a ceiling placed on the use of a particular fiscal year's apportioned funds (e.g., FY 1987 funds). Thus, a limitation is placed on obligations that can take place within a certain fiscal year, regardless of the year in which the funds were apportioned.

Figure 7 illustrates the relationship between availability of apportionments and the time period of a limitation. In the example illustrated, a limitation on obligations for FY 1990 would apply only to the sum of obligations during that 12-month period and not to the total amount of FY 1990 apportionments that may be used. Under a FY 1990 limitation individual States could be using their non-Interstate FY 1987-1990 apportionments, Interstate 4R FY 1989-1991 apportionments, and/or their Interstate FY 1990-1991 apportionments depending on the status of these individual program balances. Table 1 exemplifies an actual limitation on obligations as applied to the highway program during FY 1987.

Table 1
FY 1987 Limitation on Obligations
(In millions of dollars)

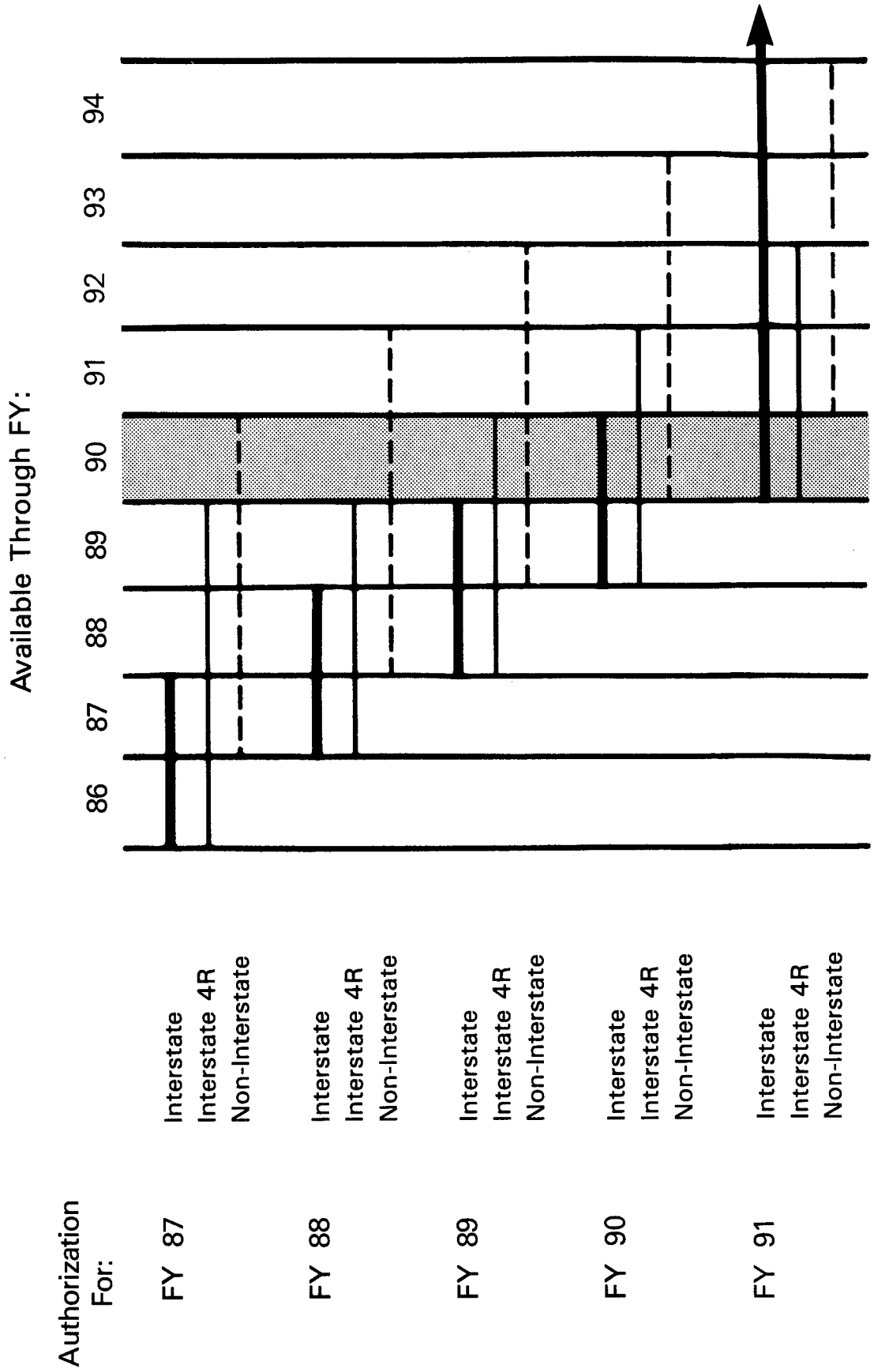
Unobligated Balance* (9-30-86)	\$ 7,081
New Apportionments/Allocations**	<u>12,476</u>
Total Apportionments/Allocations Available	19,557
Limitation (Obligational Authority)***	<u>12,350</u>
Amount Not Available for Obligation in FY 1987	\$ 7,207

* All Federal highway contract authority programs subject to the limitation (exempted are Emergency Relief, Minimum Allocation, and certain other minor program categories).

** Includes Federal highway contract authority programs subject to limitation; authorizations in the 1987 STURAA available for apportionment or allocation in FY 1987.

*** P.L. 100-17

Availability and Limitation on Obligations



During a limitation on obligations for FY 1990 (October 1, 1989-September 30, 1990), States could be obligating funds from five different fiscal years.

Figure 7

The FY 1987 limitation is divided among the States based on each State's relative share of the apportioned and allocated Federal-aid highway programs for FY 1987.⁴⁷ The law provides for a redistribution on August 1, 1987, of the obligation ceiling from those States unable to obligate up to their full ceiling to States that are able to obligate more than their ceiling permitted.⁴⁸

In addition, each State that uses up before September 30 both its original ceiling distribution and any ceiling it received through the August 1 redistribution may obligate an additional 5 percent of its unobligated balances from Interstate construction, Interstate 4R, Interstate substitution, primary, secondary, urban, bridge, railroad-highway crossing, and hazard elimination categories. However, the total nationally cannot exceed 2.5 percent.⁴⁹

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 relates only to how much of the State's total unobligated balance of apportionments/allocations may be obligated during a given year. 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 since FY 1976, Congress is the branch of Government that has placed the ceiling on the program. The turnabout came with enactment of the Congressional Budget and Impoundment Control Act of 1974.⁵⁰ Through this legislation, Congress sought to gain more control over the Federal budget. Prior to passage of the "Budget Act," Congress had not established a procedure for dealing with impoundment actions by the executive branch other than to enact a subsequent law overturning the impoundment. The "Budget Act" did not remove the executive branch completely from the picture with respect to initiating ceilings on obligations. To do so, however, the President had to formally notify the Congress of such an action (called a "deferral") and justify the action. His deferral was subject to disapproval by a majority in either the

47 P.L. 100-17, Section 105(c).

48 Ibid.

49 Ibid, Section 105(f).

50 P.L. 93-344, enacted July 12, 1974.

Senate or the House of Representatives. However, this particular procedure for overturning executive deferrals was struck down by the June 1983 Supreme Court decision (*Immigration and Naturalization Service vs. Chadha*) which declared legislative vetoes unconstitutional. In January of 1987, a Federal appeals court ruled that the President's authority to impound or defer congressionally-approved appropriations also is unconstitutional. Thus, the entire deferral process was eliminated, unless the Supreme Court overturns the appeals ruling.

Beginning with FY 1976, Congress began placing annual limitations on obligations. Executive-initiated deferrals of the major contract authority programs had been limited from that time, even before the appeals court decision. However, the President's budget each year has recommended a level for the ceiling to be imposed on the program. It should be noted that a recommendation in the President's budget does not constitute a deferral.

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 often appear in other acts such as highway acts or reconciliation bills. The operative FY 1987 limitation was in the 1987 STURAA. It modified the \$13.0 billion ceiling in the DOT Appropriations Act for 1987.⁵¹ The executive branch must abide by the congressional limitations unless it takes separate action changing the limit. The limit also may be changed through a sequestration action under the Gramm-Rudman-Hollings Act (G-R-H).⁵² Under G-R-H, deficit ceiling targets were established for each fiscal year 1986 through 1991, the targets reducing each year to zero in FY 1991. If deficit projections made each August exceed the target for the upcoming fiscal year by more than \$10 billion, spending cuts are to be made.⁵³ Such spending cuts would mean for highway programs reductions in authorizations for both contract authority and budget authority programs and in the obligation limitation for that fiscal year.

51 P.L. 99-591, Section 101(1). Passed October 18, 1986.

52 P.L. 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985. Approved December 12, 1985.

53 The projections are made by the Congressional Budget Office (CBO) and the Office of Management and Budget (OMB). In the act, their projections were submitted to the General Accounting Office (GAO) which then recommended the actual level of cuts to be made. The reductions then automatically took place. The Supreme Court ruled this process unconstitutional because GAO was an arm of the Congress and the process put Congress in the position of implementing a law. A fallback process was included in the act in anticipation of the Supreme Court ruling. The fallback is for the Congress to enact a joint resolution requiring sequestration of the various Federal funds in order to meet deficit targets. The joint resolution goes to the President for signature just like any other legislation.

In summary, the contract authority highway programs receive special consideration in the Federal budget in that funds can be obligated on the basis of an authorization act. By not going through the appropriations process before release, these programs are immune to the annual adjustments in funding levels that are made to most Federal programs. The mechanism that has been used to control the highway program and make it responsive to current economic and budgetary conditions has been the imposition of limits on the amount of multi-year Federal-aid highway apportionments and allocations that can be obligated each year. These limitations can be proposed by the executive branch or by Congress.

Rescission

Because of the appeals court decision, the only impoundment available to the President is a rescission, which rarely has been placed on the highway program. More severe than limitations, which simply delay the obligation of budget authority, rescissions call for the repeal of congressionally authorized budget authority. The executive branch or Congress can initiate rescissions, but all presidentially proposed rescissions must be agreed to by Congress before they are effective. The approval comes in the form of a bill supported by both the House and the Senate. In FY 1986, authority for several highway programs was rescinded through the sequestration actions required by G-R-H that year. However, the Consolidated Omnibus Reconciliation Act of 1985 restored some of the reduction for the primary program.

APPROPRIATIONS

The fiscal operations described so far related to the law originating in authorization acts, which are often called highway acts. Yet, as the last section described, there are also appropriation acts that affect the highway program. Though most of the Federal-aid highway programs do not receive budget authority through appropriation acts as do most other Federal programs, the appropriation act is important in the fiscal process.

A program (or project) is normally required to be authorized as part of an authorization act before funds can be appropriated for it. However, there has been a tendency by the appropriations committees to appropriate funds for new programs or projects that are not authorized in a authorization act, or to appropriated funds for a program that has been previously authorized but is not authorized in a current authorization act.

Appropriations for the highway program are contained in the annual Department of Transportation and Related Agencies Appropriations Acts. In addition to affecting the Federal Highway Administration's programs, these Acts also affect all other Department of Transportation programs and those activities of the Architectural and Transportation Barriers Compliance Board, National Transportation Safety Board, the Civil Aeronautics Board, the Interstate Commerce Commission, Panama Canal Commission Government, United States Railway Association, and the Washington Metropolitan Area Transit Authority.

The Federal Highway Administration part of the Act is divided into several accounts, each covering one or a group of highway funding categories. The accounts can be classified according to whether the type of programs composing them have contract authority or budget authority.

Contract Authority Accounts

Funds for contract authority programs can be obligated upon apportionment of authorizations contained in the Highway Act. Although obligations are commitments to reimburse the States for the Federal share of a project's cost, actual cash reimbursements by 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 "liquidating cash." The Act provides the bulk of this cash in one account,⁵⁴ "Federal-Aid Highways," which covers liquidating cash needs for most of the significant contract authority, trust-funded categories including:

Interstate	Bridge Replacement and Rehabilitation
Interstate 4R	Strategic Highway Research
Primary System	Hazard Elimination
Secondary System	Rail-Highway Crossings
Urban System	Emergency Relief
Highway Planning and Research	Metropolitan Planning
Federal Lands Highways	

plus a few special-purpose programs, plus unpaid balances remaining from discontinued programs.

⁵⁴ The other account providing liquidating cash for a contract authority program is the Highway-Related Safety Grants account.

The \$13.130 billion of liquidating cash provided by the 1987 Appropriations Act in the Federal-aid highway account was derived from an estimate of prior unpaid obligations, plus new obligations incurred during FY 1987, for which vouchers are expected to be presented by the States for payments during the fiscal year. Therefore, it is the consequence of the authorization/obligation process, but equivalent to neither the amount authorized for or expected to be obligated in FY 1987. As discussed earlier, the liquidating cash provided in the accounts covering contract authority must come from the Highway Trust Fund because of the link established in the Budget and Impoundment Control Act between Trust Fund financing and contract authority.

Limitations on Obligations

Since the nature of the program (contract authority and reimbursement) prevents direct control of cash outlays in any year, Congress relies on limitations on obligations to slow down the program. 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 often be included in an appropriations act.

The limitations on obligations are often found in the General Provisions section of the act and apply to programs under contract authority accounts. The FY 1987 Appropriations Act contained two separate sections to establish limitations for programs under the Federal-Aid Highways Account and for the Highway Related Safety Grants program. Again, these limitations are not restricting the amount of cash for reimbursement, but are ceilings on obligations that can be incurred during the fiscal year. As indicated earlier, the ceiling for the Federal-aid highways account of \$13.0 billion in the 1987 DOT Appropriations Act was superceded by the 1987 STURAA, which changed the ceiling to \$12.35 billion.

Appropriated Budget Authority Accounts

Most of the highway programs operate with contract authority, but some must obtain their budget authority through the appropriation process. The latter group has what is called "appropriated budget authority," because two steps--an authorization act and an appropriations act--are needed before obligations can be incurred. Thus, the appropriations act is crucial to these appropriated budget authority programs since it gives the go ahead to obligate as well as the liquidating cash needed for reimbursement.

In the 1987 DOT Appropriations Act, 17 of the FHWA accounts provided appropriated budget authority. Twelve of these accounts provided funds for programs (projects) that were not included in an authorization act and three others provided funds for programs that had not received authorizations for FY 1987. The total amount provided for these accounts in the DOT Act was \$122.5 million, small compared to the \$13.5 billion provided in contract authority authorizations in the 1987 STURAA.

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

Other Appropriation Actions

Besides the annual DOT Appropriations Act, there are other appropriation actions that can affect the cash available for Federal-aid highway programs.

A supplemental appropriations act is sometimes necessary during the course of a fiscal year when it becomes apparent that more cash, than was initially provided, will be necessary to reimburse the States for the Federal share of project costs. The shortfall situation can occur when the amount of vouchers submitted by the States exceeds the estimate of cash needed for the year. The Administration will request that Congress enact supplemental legislation when it foresees this situation. Congress routinely enacts such requests since the Federal Government is bound to honor the obligation it has made to the States. Usually the supplemental request for highways will be grouped with similar requests for other agencies and often it will contain other provisions relating to highways. Sometimes, in fact, a supplemental will contain only these related provisions without any request for additional reimbursing cash.

A continuing resolution provides cash to tide agencies over when an annual appropriations act has failed to be enacted by the beginning of the fiscal year. For the Federal highway program, the resolution provides cash so that reimbursements for authorized programs can continue to be made to the States at the same rate as the previous fiscal year (or the lowest rate included in either the Senate or House passed versions of an appropriations act, if it is lower than the previous year) until the DOT annual appropriations bill is enacted. In recent years, continuing resolutions have become

commonplace,⁵⁵ and it has become more routine for continuing resolutions, like appropriations acts, to include provisions that establish, i.e., authorize, new, albeit small, programs.

The Federal Budget and Appropriations Acts

Omitted from the previous discussion was an explanation of how the numbers in the appropriation acts are derived. The usual course of events starts in the spring of each year, about 1 1/2 years prior to the beginning of the fiscal year being addressed, when the FHWA begins work on the budget. Included in the budget are estimates of outlays (necessary cash to liquidate obligations), proposed budget authority for those programs which do not have contract authority, and a proposed level of obligations for the Federal-aid programs, should some measure of control be considered necessary. Also reviewed are policy issues which may affect the upcoming budget.

Development of the budget progresses through 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 in January, 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 is intended to guide the committees in formulating legislation for the next year. The G-R-H legislation, in addition to requiring spending cuts to meet deficit targets, revised the budget process.

⁵⁵ Continuing Resolutions enacted for FY 1986 and for FY 1987 incorporated the appropriations acts for several agencies, including the Department of Transportation, rather than the several acts being enacted separately, as is normally done.

The process now calls for a reconciliation action, before enactment of appropriations acts, directing that changes be made in bills to accommodate the agreed upon overall spending and tax levels in the budget resolution. Then, if all is on schedule, all appropriations acts (including 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). The timetable for the Federal budget process is shown in Figure 8.

The congressional procedures for enacting an appropriation act are like those for an authorization act described in the first chapter 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.

THE HIGHWAY TRUST FUND

The previous sections have only peripherally mentioned the Trust Fund. This has been intentional because the Trust Fund, other than being tied to the existence of contract authority through the 1974 Budget Act, does not greatly affect the financial procedures under which the highway program operates. The following section briefly describes the operation of the Trust Fund.

History

Prior to 1956, the year Interstate System authorizations were greatly increased, the Highway Trust Fund did not exist. Cash to liquidate previously incurred obligations for the Federal-aid highway program 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 automotive products were in existence, they bore little relation to expenditures for highways. At that 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." There was no formal relationship between the level of revenue obtained from the highway user taxes and the level of the highway program. Aside from this, the program operated in terms of authorizations, apportionments, obligations, appropriations, and reimbursement much as it does now.

TIMETABLE FOR FEDERAL BUDGET PROCESS

Timetable

On or before:	Action to be completed:
First Monday after January 3	President submits his budget
February 15	Congressional Budget Office submits report to Budget Committees
February 25	Committees submit views and estimates to Budget Committees
April 1	Senate Budget Committee reports concurrent resolution on the budget
April 15	Congress completes action on concurrent resolution of the budget.
May 15	Annual appropriation bills may be considered in the House
June 10	House Appropriations Committee reports last annual appropriation bill
June 15	Congress completes action on reconciliation legislation
June 30	House completes action on annual appropriation bills
October 1	Fiscal year begins

Figure-8

The Federal-Aid Highway Act of 1956, coupled with the Highway Revenue Act of that same year, increased authorizations for the primary and secondary systems, authorized significant funding of the Interstate System, and established the Highway Trust Fund as a mechanism for financing the accelerated highway program. In order to finance the increased authorizations, the Revenue Act increased some of the existing user taxes, established new ones, and provided that the revenues from most of these taxes should be credited to the Trust Fund. Revenues accruing to the Fund 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 earmarked revenues to finance the larger highway program.

The life of the Trust Fund must be extended periodically, since it is not enacted permanently. The 1956 Highway Revenue Act set an expiration date of 1971 which has been extended several times by subsequent legislation. Highway-user taxes dedicated to the fund and expenditures from the fund are now scheduled to terminate on September 30, 1993.⁵⁶

User Taxes

The Trust Fund was set up as a user-supported fund. Simply, the revenues of the Trust Fund were intended for financing highways with the taxes dedicated to the fund paid by the users of highways. This principle is still in effect, but the tax structure has changed since 1956. Major revisions occurred most recently as a result of the STAA of 1982 and the Deficit Reduction Act of 1984. Table 2 shows the types of taxes placed in the fund and the rates currently in effect.

Collection. Most of the excise taxes credited to the Fund 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 diesel and special fuels where they are paid by the retailer or consumer, the tax on trucks and trailers which is paid by the retailer, and the Federal use tax which is paid by the heavy vehicle owner). Tabulations showing taxes paid into the Fund by States are estimates of what is paid by users in those States and do not mean that the taxes were

56 P.L. 100-17, Section 503.

Table 2
USER FEE STRUCTURE

<u>Tax Type</u>	<u>Rate</u>
Gasoline/Special Fuels/Diesohol	9 cents/gal
Gasohol/Special Fuels with 10% Alcohol	3 cents/gal
Ethanol/Methanol (not made from Petroleum or Natural Gas)	3 cents/gal
Ethanol/Methanol (made from Natural Gas)	4.5 cents/gal
Diesel	15 cents/gal (1)
Tires	0-40 lbs: No Tax 40-70 lbs: 15 cents/lb 70-90 lbs: \$4.50 Plus 30 cents/lb Over 70 lbs Over 90 lbs: \$10.50 Plus 50 cents/lb Over 90 lbs
Truck Sales	12% Retail - All Tractors 12% Retail - Trucks Over 33,000 lbs GVW 12% Retail - Trailers Over 26,000 lbs GVW
Use Tax	Up to 55,000 lbs - No Tax 55,000 lbs and Over - \$100 Plus \$22/1,000 lbs Over 55,000 to a Maximum of \$550 Over 75,000 lbs Logging Trucks - 75% of the Rates Above Canadian & Mexican Trucks - 75% of the Rates Above

(1) One-time tax credit given to diesel vehicles under 10,000 lbs and 1979 or later model year

actually collected in the States. As a point of interest, because of the home office locations of major producers of taxable products, over one-half of all Federal gasoline tax revenues are received from just three States--New York, Pennsylvania, and Texas; most of the rubber tax is paid in Ohio; and most of the new motor vehicle tax payments come from Michigan. Hence, the 9-cent Federal gasoline tax charged at the pump is in effect a reimbursement for taxes already paid.

Since there is considerable interest in the amount of contributions to the Trust Fund made by each State, estimates are made of the amount of taxes paid by the consumers of each State on the basis of motor vehicle registrations and State motor fuel tax collection data. Highway users in some States pay more in user taxes than they receive back in Federal-aid highway apportionments. In an effort to compensate for this, a minimum allocation provision in Title 23 guarantees that a State's percentage of total apportionments and allocations shall not be less than 85 percent of its percentage of total payments into the Fund.⁵⁷ This calculation is to be made annually for the FY's 1987-1991 and a minimum allocation grant is made to qualifying States. The apportionments included in the calculation are those for Interstate construction, Interstate 4R, Interstate substitution, primary, secondary, urban, bridge, and safety construction categories. Allocations made in the prior year also are included, except for Federal Lands programs and several safety programs. Allocations made from Interstate construction discretionary and Emergency Relief funds will not be included in the calculation of minimum allocation amounts for FY's 1987 and 1988.

User taxes are deposited in the general funds of the Treasury and the amounts equivalent to these taxes are then transferred on paper to the Trust Fund.⁵⁸ Transfers are 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.⁵⁹ Amounts in the Fund in excess of current expenditure requirements are invested in public debt securities and interest from these securities is credited to the Fund.⁶⁰

57 23 U.S.C. 157

58 As a result of the STAA of 1982, a special Mass Transit Account was established in the Trust Fund. It will receive revenue from 1 cent of the motor fuel tax (approximately \$1.1 billion yearly).

59 Internal Revenue Code, Section 9503(b)

60 Ibid, Section 9602(b).

Pay-As-You-Go Fund

Another important characteristic of the Trust Fund is that it was set up as a pay-as-you-go fund. In other words, there must be enough money in the Trust Fund to make reimbursements. The control mechanism that ensures this is the Byrd Amendment.

Under the Byrd Amendment, as modified by the STAA of 1982, unpaid authorizations (unpaid commitments in excess of amounts available in the Fund) at the end of the FY in which the apportionment is to be made must be less than the revenues anticipated to be earned in the following 24-month period. For example, at the close of FY 1987 the Secretary of the Treasury must determine whether the sum of the balance of the Trust Fund as of September 30, 1987, plus the anticipated revenues in FY's 1988, 1989, and 1990, will be greater than the sum of the authorizations for FY 1988 and the authorizations apportioned, but not paid, as of September 30, 1987.

If there will be a shortfall in funds, then all Trust Funded program apportionments for that fiscal year will be reduced proportionately.⁶¹

Expenditures. As stated before, the Trust Fund exists to support the Federal-aid highway program (plus the new transit capital assistance from the Mass Transit Account). Even though the program does 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 Trust Fund by an appropriation act. In other words, the Federal Government does not have the ability to pay the States without an appropriation of cash from the Trust Fund. Any amounts that have been appropriated but not used during the year can be carried over for use in the next fiscal year. Conversely, as noted before, supplemental appropriations are enacted when insufficient amounts were appropriated in the annual DOT Appropriations Act.

Payments from the Trust Fund include not only those required for reimbursements to the States but also transfers to the Aquatic Resources Trust Fund of up to \$45 million with the excess transferred to the Land and Water Conservation Fund for estimated taxes received from the sale of gasoline and special fuels used in motorboats.⁶² In FY 1986, \$70 million was transferred.

61 Ibid, Section 9503(d).

62 Ibid, 9503(c)(4).

Provisions have been made in several recent laws for several exemptions from highway user fees. Exemptions currently in effect (July 1987) are shown in Table 3. It is estimated that these exemptions will reduce Trust Fund revenues in FY 1988 by over \$1 billion as compared to the revenue that would have been received if all highway users paid the full amount of the applicable highway user taxes. In some cases, the motor fuel tax has already been paid by the producer/distributor or retailer on motor fuel that is ultimately used for an exempt purpose and the price the ultimate user paid included the tax. In those cases, the ultimate user of the motor fuel is entitled to a refund of the tax paid. These refunds amounted to \$210 million in FY 1986. Table 4 shows the outlays from the Trust Fund during FY 1986.

Balance of the Highway Trust Fund

The balance of the Highway Trust Fund has long been a point of controversy. Because of the nature of a reimbursable program like the Federal-aid highway program, there will always be cash in the Fund that is not needed for immediate use. (As discussed earlier, this cash is invested in Federal securities.) It is important to understand that this is not excess cash, but will be needed to reimburse the States as vouchers are submitted.

Perhaps a comparison of the Trust Fund operation to a personal financial situation can help clarify this point. If a couple has a checking account balance of \$500, that amount cannot be considered excess, if they have at the same time outstanding monthly bills of \$1,000, but neither is the account in a deficit situation since they will receive \$1,200 in paychecks at the end of the month.

This is how the Trust Fund operates. Although there was a cash balance of over \$9 billion at the close of FY 1986, there were also, at the same time, unpaid commitments (authorizations already apportioned/allocated to the States) against the Trust Fund totaling about \$29 billion. Therefore, the \$9 billion balance is not excess cash.

If highway revenues were to have stopped completely at the close of FY 1986, the debts (unpaid obligations and authorizations) would exceed the cash on hand by about \$20 billion. Since the highway program functions as a reimbursable program, with cash outlays following obligations at a later date, this situation is quite proper. The Revenue Act did not state that obligations should not exceed the balance in the Fund, but that they should not exceed the anticipated amounts that could be liquidated from Trust Fund revenues at a future date, i.e., when the vouchers are submitted for payment.

**Table 3
Federal Fuel Tax Exemptions**

<u>Item</u>	<u>Amount</u>
Gasohol (90% gasoline, 10% ethanol)	6¢
Neat Ethanol/Methanol (at least 85% ethanol/methanol)	
- made from natural gas	4.5¢
- not made from petroleum or natural gas	6¢
Diesohol (90% diesel fuel, 10% alcohol)	6¢
Special fuel with 10% alcohol	6¢

Special Exemptions

State and local governments and nonprofit educational organizations	All highway user taxes
Buses (intercity, local & school)	Motor fuel* and tire taxes
Energy conserving taxicabs	4 cents/gallon/motor fuel tax
Farm use/off highway businesses	Motor fuel taxes

* For intercity and certain intracity bus use, the exemption for diesel and special fuels cannot exceed 12 cents/gallon

Table 4
Operation of the Highway Trust Fund
(In millions of dollars)

Balance Close of FY 1985		\$10,361
Receipts		
Excises	12,248	
Interest	<u>1,337</u>	
Total Receipts		13,585
Disbursements		
Transfer to Land and Water Conservation Fund	70	
Tax Refunds	210	
Federal-Aid Highway Program	<u>14,180</u>	
Total Disbursements		14,460
Receipts Less Disbursements		-875
Balance Close of FY 1986		\$9,486

From FY 1987 through the life of the Fund, it is estimated that about \$100 billion in revenue will be raised for highways. Of course, there will also be more funds distributed to the States during this period pursuant to the authorizations in the 1987 STURAA, which extend through FY 1986. The difference between commitments and income through the termination of the Fund is now estimated to be approximately \$8.5 billion, i.e., the amount of uncommitted funds. It is this amount which truly reflects the status of the Fund and which must be considered when any new commitments (i.e., additional authorizations) are proposed. It also must be recognized that this balance is based on revenue projections that can change from time to time. If the projections are reduced or if the commitments are increased (Congress may add new programs), the balance will be less.

SUMMARY

The preceding sections have traced the flow of fiscal authority for the Federal-aid highway program from authorization through reimbursement. In capsule form, the cycle can be considered to begin with the authorizing legislation. These acts set the upper limits on liabilities the Federal Government can incur for Federal-aid highways. Deductions from the authorized levels are then made for administration of the program and for urban transportation planning, the total normally amounting to less than 3 percent of the authorizations.

The remaining amounts are then apportioned or allocated (divided) among the States. Apportionments and allocations are considered "new obligation authority" and, when added to the unobligated balances of previous apportionments and allocations, constitute the total amount of obligation authority available to the States. It must be remembered that what is made available is not money but authority to incur obligations: a "line of credit." A State does not receive this authority in one lump sum, but in some 20 or more different funding categories, each with a defined purpose and set of conditions and rules for using the funds (e.g., Interstate, primary highways, urban highways, hazard elimination, etc.).

Interstate apportionments including Interstate 4R funds are made 1 year in advance of the beginning of the fiscal year for which they were authorized. Interstate construction funds remain available until that fiscal year ends, or 2 years (funds apportioned on or after October 1, 1989, are available until expended), and Interstate

4R funds remain available for a total of 3 years. Non-Interstate apportionments are made on the first day of the fiscal year for which authorized and remain available until 3 years after that fiscal year ends, or 4 years in total.

States request the FHWA to obligate specified amounts of this authority (i.e., acquire rights-of-way, award construction contracts, etc.) for specific highway projects, subject to the availability of apportionments and allocations and to any limitations on obligations which may have been imposed for that fiscal year. Limitations regulate the rate of obligations by imposing a maximum amount of total authority which can be committed during a given fiscal year. Federal approval of each request is a contractual agreement to pay the State the Federal share of work completed on that project.

Once the funds are obligated and a project is under way, progress payments may be made to the States for completed work. This liquidating cash is appropriated annually by Congress and is derived from revenues accruing to the Highway Trust Fund.

APPENDICES

APPENDIX A

Glossary

Allocation--An administrative distribution of funds among the States. This is done for funds which do not have statutory distribution formulas.

Apportionment--A term that refers to a statutorily prescribed division or assignment of funds. An apportionment is based on prescribed formulas in the law and consists of dividing authorized obligation authority for a specific program among the States.

Appropriations Act--Action of a legislative body, which 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, appropriations specify amounts of funds that Congress will make available to liquidate prior obligations.

Authorization Act--Basic substantive legislation or that which empowers an agency to implement a particular program, and also establishes an upper limit on the amount of funds which can be appropriated for that program.

Budget Authority--Empowerment by the Congress that allows Federal agencies to incur obligations to spend or lend money. This empowerment is generally in the form of appropriations. However, for the major highway program categories, it is in the form of "contract authority." Budget authority permits agencies to obligate all or part of the funds which were previously "authorized." Without budget authority, Federal agencies cannot commit the Government to make expenditures or loans.

Contract Authority--A form of budget authority that permits obligations to be made in advance of appropriations. The Federal-aid highway program contract authority.

Deferral--Executive action or inaction that effectively delays the obligation or expenditure of budget authority. As provided for in the Congressional Budget and Impoundment Control Act of 1974, a deferral remained in effect until a majority of either House of Congress overturned it by passing an impoundment resolution or until the end of

the fiscal year. This action by Congress, overturning a deferral, is a legislative veto which the Supreme Court ruled unconstitutional in the case of *Immigration and Naturalization Service vs. Chadha* (June 23, 1983).

Expenditures (Outlays)--A term signifying disbursement of funds for repayment of obligations incurred. An electronic transfer of funds, or a check sent to a State highway department for voucher payment, is an expenditure or outlay.

Fiscal Year (FY)--Since FY 1977, the yearly accounting period beginning October 1 and ending September 30 of the subsequent calendar year. (Prior to FY 1977, the Federal fiscal year started on July 1 and ended the following June 30.) Fiscal years are denoted by the calendar year in which they end; e.g., FY 1987 began October 1, 1986, and ended September 30, 1987.

Limitation on Obligations--Any action or inaction by an officer or employee of the United States that limits the amount of Federal assistance that may be obligated during a specified time period. A limitation on obligations does not affect the scheduled apportionment or allocation of funds; it just controls the rate at which these funds may be used.

Obligations--Commitments made by Federal agencies to pay out money, as distinct from the actual payments, which are "outlays." Generally, obligations are incurred after the enactment of budget authority. However, since budget authority in many highway programs is in the form of contract authority, obligations in these cases are permitted to be incurred immediately after apportionment or allocation. The obligations are for the Federal share of the estimated full cost of each project at the time it is approved, regardless of when the actual payments are made or the expected time of project completion.

President's Budget--A document submitted annually (First Monday after January 3) by the President to Congress which sets forth the Executive recommendations for the Federal budget for the upcoming fiscal year. The President's budget submitted in January 1987 contained recommendations for FY 1988, which began October 1, 1987.

Rescission--A legislative action to cancel the obligation of unused budget authority previously provided by Congress prior to the time when the authority would have otherwise lapsed. Rescissions may be proposed by the executive branch but require legislative action to become effective.

States--As defined in Chapter 1 of Title 23, the 50 States comprising the United States, plus the District of Columbia, and the Commonwealth of Puerto Rico. However, for the purposes of some programs (e.g., Highway Safety programs under 23 U.S.C. 402) the term may also include the Territories (Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands) and the Secretary of the Interior (for Indian reservations).

Trust Funds--Accounts established by law to hold receipts which are collected by the Government and earmarked for specific purposes and programs. These receipts are not available for the general purposes of the Government. The Highway Trust Fund is comprised of receipts from certain highway user taxes (e.g., excise taxes on motor fuel, rubber, and heavy vehicles) and reserved for use for highway construction and related purposes.

APPENDIX B-1

AUTHORIZATIONS FY 1987 - FY 1991
 SURFACE TRANSPORTATION AND UNIFORM RELOCATION ASSISTANCE ACT OF 1987
 (millions of dollars)

TITLE I	FY87	FY88	FY89	FY90	FY91	TOTAL
Interstate Construction /1	3,000	3,150	3,150	3,150	3,150	15,600
Interstate 4R /1	2,815	2,815	2,815	2,815	2,815	14,075
Interstate Subs-Hwy	740	740	740	740	740	3,700
Primary	2,325	2,325	2,325	2,325	2,325	11,625
Primary Minimum *	47.950	47.950	47.950	47.950	47.950	239.750
Secondary	600	600	600	600	600	3,000
Urban	750	750	750	750	750	3,750
Bridge	1,630	1,630	1,630	1,630	1,630	8,150
Hazard Elimination	170	170	170	170	170	850
Rail-Highway Crossings	160	160	160	160	160	800
Indian Reservation Roads	80	80	80	80	80	400
Forest Hwys	55	55	55	55	55	275
Public Lands Hwys	40 #	40	40	40	40	200
Parkways & Park Hwys	60	60	60	60	60	300
FHWA 402	10	10	10	10	10	50
FHWA 403	10	10	10	10	10	50
Trans. of Nuclear Waste/2	58					58
RR Relocation Demo /3	15	15	15	15	15	75
New Demo Projects	178.008	178.008	178.008	178.008	178.008	890.040
Minimum Allocation *	725	800	800	950	950	4,225
Emergency Relief /5	100	100	100	100	100	500
Urban High Density Project	2.807					2.807
Motor Vehicle Study	0.500	0.500				1.000
Rail-Highway Crossing Study	0.600					0.600
Feasibility Study-Highway						
Electrification	0.970	0.970	0.970			2.910
Cost Effectiveness Study	0.650					0.650
Hwy Feasibility Study	0.100					0.100
Total	13,574.585	13,737.428	13,736.928	13,885.958	13,885.958	68,820.857

TITLE II

NHTSA 402	126	126	126	126	126	630
NHTSA 403	33	33	33	33	33	165
Total	159	159	159	159	159	795

TITLE III	FY87	FY88	FY89	FY90	FY91	TOTAL
Mass Transit Account, Discr.	1,097	1,200	1,250	1,300	1,400	6,247
Planning	(45)	(45)	(45)	(45)	(45)	(225)
Innovative Technology		(35)	(35)	(35)	(35)	(140)
University Transp. Centers		(5)	(5)	(5)	(5)	(20)
Bus Testing (MTA)	0.2	3				3.2
University Transp. Centers (HIF)		5	5	5	5	20
Formula Grants /7	2,000	2,100	2,100	2,100	2,100	10,400
Interstate Substitutes - Transit/7	200	200	200	200	200	1,000
University RD&D, Admin., & Misc. /7	/8	50	50	50	50	200
						0
Total	3,297.2	3,558	3,605	3,655	3,755	17,485.2

AUTHORIZATIONS PROVIDED IN OTHER ACTS

Other Trust Funded Demos /4	36.800					36.800
Other General Funded Demos /4	8.807					8.807
Motor Carrier Safety Assistance /6	50	50	60	60	60	280
Access to....Lakes /4	5					5
B-W Parkway /4	10					10.00
Motor Carrier Safety Admin. /4 /7	19.915					19.915
Total	130.522	50	60	60	60	360.522

* Estimates

/1 Year available (apportioned year in advance); authorization is year shown plus one.

/2 General Fund (\$10 M provided in 1987 DOT Appropriations Act)

/3 1/3 General Fund, 2/3 Trust Fund
(\$11.75 M provided in 1987 DOT Appropriations Act)

/4 1987 DOT Appropriations Act

/5 Provided in 23 USC 125

/6 Authorized in Commercial Motor Vehicle Safety Act of 1986
(\$16.3 M provided in 1987 DOT Appropriations Act)

/7 General Fund

/8 Such sums as necessary

A P P E N D I X B-2

Fiscal Characteristics of Highway Programs Authorized by the Surface Transportation and Uniform Relocation Assistance Act of 1987 a/

<u>Major Program Category</u>	<u>Contract or Appropriated Budget Authority</u>	<u>Federal Share</u>	<u>Availability of Authorizations</u>
<u>System Related</u>			
Interstate	C	90*	2
Interstate 4R	C	90*	4
Interstate Substitution	C	85	2
Primary	C	75*	4
Primary Minimum	C	75*	4
Urban	C	75*	4
Secondary	C	75*	4
<u>Special Purpose</u>			
Bridge Replacement and Rehabilitation	C	80	4
Hazard Elimination	C	90	4
Rail Highway Crossings	C	90	4
Highway-Related Safety Grants	C	75*	4
Highway Safety R&D	AB	100	4
Federal Lands Highways:	C	100	4
- Forest Highways			
- Public Lands Highways			
- Parkways and Park Highways			
- Indian Reservation Roads			
Minimum Allocation	C	75-90	4
<u>Demonstrations and Studies</u>			
Railroad Highway Crossing Demo	AB	75	until expended
Section 149 Demonstration Projects (152 projects)	C	80 <u>b/</u>	until expended
Motor Vehicle Study	C	100	until expended
Feasibility Study of Using Highway Electrification Systems	C	65	until expended

May be increased up to 95 percent for States with large areas of public lands.

This list includes only programs authorized in the STURAA of 1987; other programs, which received authorizations previously in other legislation are also administered by FHWA.

Of each project amount: 50 percent is from special funds authorized by the STURAA of 1987 and 30 percent is from earmarked discretionary funds. States/locals must provide the other 20 percent.

APPENDIX C-1
Apportionment Formulas

Formulas for apportioning authorized sums for certain classes of Federal-aid highways are specified statute. These are shown below.

<u>Program</u>	<u>Factors</u>	<u>Weight</u>	<u>Statute*</u>	<u>Minimum Apportionment</u>
Interstate System (for completion only)	Relative Federal Share of Cost to Complete the System**	1	104(b)(5)(A)	1/2 percent (including Alaska)
Interstate Resurfacing, Restoration, Rehabilitation, and Reconstruction	Interstate System Lane Miles Vehicle Miles Traveled on Interstate System	55% 45%	104(b)(5)(B)	1/2 percent
Interstate Highway Substitution (3/4 apportioned, 1/4 discretionary allocation)	Relative Federal Share of Cost to Complete Substitute Projects	1	103(e)(4)	-----
Primary System	<u>Formula A</u>		104(b)(1)	
	Area	2/9		
	Rural Population	2/9		
	Rural Delivery Route Mileage and Intercity Mail Route Mileage	2/9		
	Urban Population*** (1/2 percent minimum (except D.C.))	1/3		

<u>Program</u>	<u>Factors</u>	<u>Weight</u>	<u>Statute*</u>	<u>Minimum Apportionment</u>
	<u>Formula B</u>		Sec. 108, P.L. 97-424,	
	Rural Population	1/2	Extended by	
	Urban Population***	1/2	P.L. 100-17	
	For each State, determine greater of A or B, then: Each State's apportionment equals: A or B x <u>Total Primary Authorization</u> Sum of all States' A or B			1/2 percent (including territories as a whole)
	Except that: the apportionment is not less than smaller of A or B			
Boundary System	Area	1/3	104(b)(2)	1/2 percent (except for D.C.)
	Rural Population	1/3		
	Rural Delivery Route Mileage and Intercity Mail Route Mileage	1/3		
Urban System	Urban Area*** Population	1	104(b)(6)	1/2 percent
Urban Transportation Planning	Urbanized Area**** Population	1	104(f)(2)	1/2 percent
Bridge Replacement & Rehabilitation	Relative share of total cost of deficient bridges	1	144(e)	1/4 percent (10 percent maximum)
Public Road Elimination	Total Population	3/4	152(e)	1/2 percent
	Public Road Mileage	1/4		
Public Road Safety Programs	Total Population	3/4	402(c)	
	Public Road Mileage	1/4	1/2 percent	
Rail-Highway Crossing	Area	1/12	130(f)	
	Rural Population	1/12		
	Rural Delivery Route Mileage and Intercity Mail Route Mileage	1/12		1/2 percent
	Urban Population	1/4		1/2 percent
	Number of Rail-Highway Crossings	1/2		none

Minimum Allocation

For fiscal years 1987-91, each State is guaranteed an amount so that its percentage of total apportionments in each fiscal year of Interstate, Interstate 4R, Interstate highway substitutes, primary, secondary, urban, bridge replacement and rehabilitation, hazard elimination and rail-highway crossings shall not be less than the percentage of the allocations it received the previous fiscal year (except for Federal lands, highway related safety grants under 23 U.S.C. 402, 406, and 408 and Motor Carrier Safety Assistance Program) shall not be less than 85 percent of the percentage of estimated contributions to the Highway Trust Fund, not including the Mass Transit Account (23 U.S.C. 157). Emergency Relief and Interstate Construction discretionary allocations will not be included in the calculation for FY 1987 and FY 1988.

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- * Denotes appropriate section in Title 23, U.S.C., unless otherwise indicated.
 - ** Apportionment factors are contained in the periodic reports, "A Revised Estimate of the Cost of Completing the National System of Interstate and Defense Highways," submitted to Congress as required in 23 U.S.C. 104(b)(5)(A).
 - *** Places of 5,000 or more persons.
 - **** Usually places of 50,000 or more persons--definition contained in 23 U.S.C. 101(a).

APPENDIX C - 2

ALLOCATED FUNDS

Not all authorizations are coupled with legislative apportionment formulas. Some major funds distributed through allocation are shown below.

Funds and Statutory Reference

Distribution

Interstate Discretionary
23 U.S.C. 118(b)(2)

Discretionary but Secretary is to give priority to: (1) high cost projects which contribute to opening Interstate segment; and (2) projects of high cost relative to a State's apportionment; and (3) for conversion of advance Interstate construction projects. States must apply for funds and be able to use the funds on a ready-to-commence project and begin work within 90 days of obligation. To be eligible for funds States must have already used available authority.

Interstate 4R Discretionary
23 U.S.C. 118(b)(3)

State applying for funds must have obligated all of its I-4R funds and must be able to obligate the funds within 1-year of their being made available; apply the funds to a ready-to-commence project; and begin work within 90 days of obligation. The Secretary is to give priority consideration to projects costing more than \$10 million on high volume urban routes or high truck-volume routes in rural areas.

Bridge Discretionary
P.L. 97-424, Section 161

Funds can be used only for 1) highway bridges costing more than \$10 million to replace or rehabilitate and 2) bridges costing less than \$10 million if the cost is at least twice the amount apportioned to the State for the year in which discretionary funds are sought. In addition, the Secretary must apply the selection criteria identified in Section 161 of the 1982 Surface Transportation Assistance Act.

Emergency Relief

Project-by-project

Federal Lands Highways

Needs basis

- Forest Highways
- Indian Reservation Roads
- Parkways and Park
Highways
- Public Lands Highways

Section 149 Demonstration
Projects

Amounts for each of 152 projects and the location of the projects are specified by Congress. Each State is to receive a minimum amount (\$29,060).

AUTHORIZATION, ALLOCATI
N, TRUST FUND, IMPOUNDME
DGET AUTHORITY, AUTHORIZ
IATION, OBLIGATION, TRUST
AL, RESCISSION, BUDGET AU
OCATION, APPROPRIATION, C
UNDMENT, DEFERRAL, RESCI
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