



Federal Highway Assistance to U.S. Territories: Legislative/Funding History and Reauthorization Options

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Summary

The United States Territories—American Samoa, Guam, Northern Mariana Islands, and the U. S. Virgin Islands—all receive federal funding for their roads and highways. The Territories' treatment under the Federal-Aid Highway Program (FAHP), however, differs significantly from that of the 50 states and the District of Columbia. Prior to 1970 most of the road construction and maintenance activity was financed and carried out by the territorial governments. In 1970, Congress established the Territorial Highway Program (THP) in the Federal-Aid Highway Act of 1970 (P.L. 91-605). The Act authorized the Department of Transportation (DOT) to assist each of the three territories, the Virgin Islands, Guam, and American Samoa (the Northern Mariana Islands were added to the program in 1978), in a program for the construction and improvement of a system of arterial highways to be designated by each territory's Governor. DOT was also directed to provide technical assistance to each territory to assist in the creation of an appropriate agency to administer the program.

During the more than 30 years the program has existed the THP's enacting language (23 U.S.C. 215) has basically remained the same but the level of financing varied with each reauthorization. Program funding varied from a low of \$4.5 million annually, in FY1970-FY1973 to a high of \$36.2 million in FY2003. Some funding from other program sources has also gone to the territories. The Emergency Relief Program, the High Priority Project Program, and certain safety programs have provided funding for territorial highways over the years.

The arguments generally made in support of federal aid to the territories, including highway aid, are usually framed in terms of the transportation and development needs of the territories and the benefits the territories provide to the United States. The arguments against expanded territorial eligibility under federal-aid highway programs are framed by the territories' exemption from the taxes that support the highway account of the Highway Trust Fund (HTF), the implications of the territories limited land area, and their non-state status.

As reauthorization of the Transportation Equity Act for the 21st Century (TEA-21) (P.L. 105-178), Congress may address a number of options concerning federal highway funding for the territories. The overall issue for the territories is the appropriate extent of their participation in the FAHP. The options range from elimination of the THP to expanding territorial participation in FAHP programs to equal that of the states. Elimination of the THP appears unlikely given the federal commitments to economic development of the territories. On the other hand, the fact that the territories do not pay the taxes that provide revenue to the HTF will probably preclude them from full participation in HTF programs. The Bush Administration proposal, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act (SAFETEA)(H.R. 2088), would make a number of changes in the THP and retain its authorization at the TEA21 annual level of \$36.4 million. This report will be updated as warranted by events.

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The United States Territories—American Samoa, Guam, Northern Mariana Islands, and the U. S. Virgin Islands—all receive federal funding for their roads and highways.¹ The Territories’ treatment under the Federal-Aid Highway Program (FAHP), however, differs significantly from that of the 50 states and the District of Columbia. After a brief background discussion this report examines the legislative and program history of federal-aid highway assistance to the territories. It then discusses the funding history of federal highway assistance to the territories since 1970. Finally the report reviews the overall arguments for and against federal assistance and sets forth related issues and options which may emerge during the upcoming reauthorization of the surface transportation programs.²

Background

Prior to 1970 most road construction and maintenance was financed and carried out by the territorial governments. Locally levied fuel taxes supported road projects. The most significant federal involvement in road construction in the territories was limited to the construction of military roads (especially significant for Guam) and provision of disaster relief. During the 1960s, rapid growth in population and motor vehicle use led to increasing traffic congestion which in turn led to interest in establishing a federally financed territorial road program. The Federal Aid Highway Act of 1968 (P.L. 90-495) directed the Department of Transportation (DOT) to carry out a highway study of Guam, American Samoa, and the Virgin Islands.

The report, *Territorial Highway Study: Guam, American Samoa, Virgin Islands*, released January 7, 1970, revealed that “concentrations of people and motor vehicles within the compact areas of these island territories produce large volumes of traffic compelled to move over substandard highways at slower speeds and at greater hazard than drivers ordinarily encounter in the states. Traffic growth is currently several times more rapid than the national average.” The study, however, recommended against any new federal highway grant programs for the three territories. Instead, the report recommended that the territorial governments should themselves finance an expanded highway development program by raising the territorial gasoline tax rates by five cents. It recommended that additional studies be conducted over the following years in order to develop a suitable highway improvement program for each territory, based on its individual needs. The report also recommended that DOT provide technical guidance for each territorial government.³ Part of the report authors’ reluctance to recommend spending significant amounts of federal funds on territorial roads grew out of the constrained fiscal environment of the time. The most significant restraint, however, had to do with the nature of the financing of the federal highway trust fund (HTF) that supports spending on highways in the United States. The HTF is supported by excise tax revenues (mostly from excise taxes on gasoline and diesel fuel) paid by highway users in the states. The territories, however, do not pay these federal taxes and therefore do not provide revenues to the highway trust fund.⁴

¹ Guam, the Virgin Islands, and American Samoa, are organized unincorporated territories of the United States. The Northern Mariana Islands has commonwealth status. In this memorandum, the four are collectively referred to as “the territories.”

² The current authorization of surface transportation programs under the Transportation Equity Act for the 21st Century (P.L. 105-178) ends with the close of FY2003, September 30, 2003.

³ U.S. Department of Transportation. *Territorial Highway Study: Guam, American Samoa, Virgin Islands*. Senate Document No. 91-62. Washington, G.P.O., 1970. 116 p.

⁴ In large part, the territories are exempt from these taxes for philosophical reasons. Since the territories do not have full voting representation in Congress, taxing the territories would be imposing “taxation without representation.” The (continued...)

Territorial Highway Program (THP)

Founding Legislation

Despite the DOT recommendation against the establishment of a federally financed highway program for the territories, the Federal-Aid Highway Act of 1970 (FAHA70)(P.L. 91-605), section 112, established the Territorial Highway Program(THP).⁵ The Act authorized DOT to assist each of the three territories (the Virgin Islands, Guam, and American Samoa) in a program for the construction and improvement of a system of arterial highways and inter-island connectors (envisioned as road links from arterial highways to airports or seaports) to be designated by each territory's Governor. DOT was also directed to provide technical assistance to each territory to assist in the creation of an appropriate agency to administer the program.⁶ Provisions of Title 23 applicable to Federal-aid primary highway funds (other than formula provisions) applied to funds authorized to carry out the THP. No funds so authorized were to be used for maintenance of the highway system (i.e. the funds were to be used for building and improving roads only). FAHA'70 authorized \$2 million annually for Guam and the Virgin Islands and \$500,000 annually for American Samoa for fiscal years 1971 through 1973. Federal assistance was granted to the territories based on a federal contribution of 70% of total project cost.

Federal-Aid Highway Acts of 1973 (P.L. 93-87) and 1976 (P.L. 94-280)

These authorization acts changed little in the THP other than the authorization levels. The 1973 Act authorized \$5 million for the Virgin Islands, \$2 million for Guam, and \$1 million for American Samoa, annually for FY1974-FY1976. The 1976 Act provided \$1.25 million each for the Virgin Islands and Guam and \$250,000 for American Samoa for the 1976 special fiscal quarter, ending Sept 31, 1976. The Act then authorized \$5 million annually for both the Virgin Islands and Guam and \$1 million for American Samoa, for FY1977 and FY1978.

Surface Transportation Assistance Act of 1978 (STAA78) (P.L. 95-599)

STAA78 made two significant changes to THP. First, the bill added the Northern Mariana Islands to the THP and provided the Islands with \$1 million annually for the life of the authorization, FY1979-FY1982. Second, the Act raised the federal contribution under THP from 70% to 100%. The Virgin Islands, Guam, and American Samoa annual authorizations were continued for the life of the authorization at the \$5 million, \$5 million, and \$1 million levels respectively.

(...continued)

absence of federal taxation, however, is also seen as an incentive for economic development in the territories, whose per capita incomes are significantly lower than the average for the states.

⁵ 23 U.S.C. 215. The Federal Highway Administration, Office of Program Administration publication *A Guide to Federal-Aid Programs and Projects* (Publication No. FHWA-IF-99-006) provides a concise fact sheet on THP on pages 99-101.

⁶ The House version of the bill had proposed a program for the Virgin Islands only (See the Congressional Record for November 25, 1970 page H10782, H10793). The Senate proposal provided for inclusion of the Virgin Islands, Guam, and American Samoa (See Congressional Record, September 30, 1970, page S16759).

Surface Transportation Assistance Act of 1982 (STAA82) (P.L. 97-424)

STAA82 made a major change in the funding for THP. The Act authorized that the four territories be treated together as a state for Federal-Aid Primary (FAP) funds. This meant that the territories got at least ½ % of FAP funds, in contract authority, from the highway trust fund, each year of the authorization. This also made THP funds subject to reduction under the obligation limitation.⁷

The Formula Controversy

The apportionment for the territories was allocated to the individual territories under a formula that was based: 1/3 on urban population greater than 5000, 1/3 on rural population, 1/6 on public road mileage, and 1/6 on area. According to FHWA, several territories contested the figures based on population. In September 1983, FHWA decided to infer congressional intent from the funding set forth in STAA78 (i.e. \$1 million for American Samoa, \$5 million for Guam, \$5 million for the Virgin Islands, and \$1 million for the Northern Marianas) and derive ratios based on this division of funds. Consequently, from FY1984 through FY1992, THP funds were divided among the territories as follows: 1/12 to American Samoa, 5/12 to the Virgin Islands, 5/12 to Guam, and 1/12 to the Northern Mariana Islands.

Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) (P.L. 100-17)

STURAA extended the authorizations set forth in STAA82. The THP continued to receive ½ % of each year's federal-aid primary funding under contract authority and the federal share continued at 100%.

Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (P.L. 102-240)

ISTEA made no changes to statutory language of the THP (23 U.S.C. 215) but did change the source of funding. The Act defined the four territories as a state under the National Highway System (NHS) Program and set aside 1% of NHS funds for the territories.

Formula Controversy: the Second Round

According to FHWA, in 1992 the agency reviewed the 1-5-5-1 allocation, at the request of one of the territories. The agency concluded that American Samoa and the Northern Mariana Islands were not getting their fair share based on road mileage, area, population, or any combination of these factors. FHWA developed and analyzed over twenty possible formulas based on census information and 1990 highway statistics. Beginning in 1993 the administrative allocation was changed to a new 1-4-4-1 formula. This raised the ratio received by American Samoa and the Northern Mariana Islands to 1/10 and reduced the ratio received by the Virgin Islands and Guam to 4/10.

⁷ The obligation limitation is a restriction or ceiling on the amount of federal assistance that may be obligated (i.e., promised by the federal government) during a specified time period, usually a fiscal year. This does not effect the apportionment or allocation of funds but controls their rate of use. See FHWA. *Financing Federal-Aid Highways*. Washington, FHWA, 1999. p. 19-23.

ISTEA required each territory to classify their highways. Since then, the territories have each established, with FHWA approval, a combination of arterial and collector highways and inter-island connectors. Called the Federal-Aid Territorial Highway System, these routes are eligible for Federal-aid funds under THP.

Transportation Equity Act for the Twenty First Century (TEA-21)(P.L. 105-178)

TEA-21 changed the set-aside for THP from 1% of NHS funds to a set amount of \$36.4 million per fiscal year. During the debate on TEA-21 the House voted to continue the 1% set-aside from NHS, but the Senate voted not to fund the THP. The \$36.4 million set-aside was agreed to in conference (H. Rept.105-550). Because the funds are subject to the annual obligation limitation, only the amount of the \$36.4 million for which obligation authority is made available may be distributed to the territories.⁸ TEA-21 also expanded project eligibility to include any project eligible for assistance under the Surface Transportation Program, as well as any airport or seaport in the four territories. FHWA continues to divide these funds according to the 1-4-4-1 administrative formula.

THP Funding History

Federal funding of transportation projects under the THP has changed over the years in accordance with the relevant provisions of the surface transportation authorization acts discussed in the previous section. **Table 1** sets forth the actual amounts distributed to the territories under the THP. Other than the founding year, the years which initiated significant THP funding increases were FY1974, FY1977, and FY1992. In FY1974, funding for American Samoa doubled and funding for the Virgin Islands more than doubled. Guam's funding was increased to \$5 million for FY1977 which brought Guam into parity with the Virgin Islands. This rough parity continues to this day. The drop in funding in FY1983 reflects the shift to ½ % of federal aid primary contract authority and also the impact of THP being made subject to obligation limitation. The next major increase in funding occurred during FY1992-FY1993 under ISTEA. By FY1993 the funding for American Samoa and the Northern Marianas had more than tripled (due in part to the change in the distribution formula in 1993, mentioned earlier). Funding for Guam and the Virgin Islands more than doubled. Under TEA-21 funding for THP has remained at roughly the ISTEA level.

Table 1. Territorial Highway Program: Funding FY1971-FY2002

(Current \$)

FY	American Samoa	Guam	Virgin Islands	Northern Mariana Islands	Totals
1971	500,000	2,000,000	2,000,000	N/A	4,500,000
1972	500,000	2,000,000	2,000,000	N/A	4,500,000
1973	500,000	2,000,000	2,000,000	N/A	4,500,000
1974	1,000,000	2,000,000	5,000,000	N/A	8,000,000

⁸ According to TEA-21 section 1102 (f), the remaining contract authority is distributed to the states.

FY	American Samoa	Guam	Virgin Islands	Northern Mariana Islands	Totals
1975	1,000,000	2,000,000	5,000,000	N/A	8,000,000
1976	1,000,000	2,000,000	5,000,000	N/A	8,000,000
1977	1,000,000	5,000,000	5,000,000	N/A	11,000,000
1978	1,000,000	5,000,000	5,000,000	N/A	11,000,000
1979	1,000,000	5,000,000	5,000,000	1,000,000	12,000,000
1980	1,000,000	5,000,000	5,000,000	1,000,000	12,000,000
1981	1,000,000	5,000,000	5,000,000	1,000,000	12,000,000
1982	1,000,000	5,000,000	5,000,000	1,000,000	12,000,000
1983	883,876	4,020,553	4,609,282	883,132	10,396,843
1984	862,000	4,310,000	4,310,000	862,000	10,344,000
1985	944,000	4,720,000	4,720,000	944,000	11,328,000
1986	962,000	4,812,000	4,812,000	962,000	11,548,000
1987	945,000	4,723,000	4,723,000	945,000	11,336,000
1988	945,000	4,723,000	4,723,000	945,000	11,336,000
1989	945,000	4,723,000	4,723,000	945,000	11,336,000
1990	945,000	4,723,000	4,723,000	945,000	11,336,000
1991	939,000	4,697,000	4,697,000	939,000	11,272,000
1992	2,364,344	11,821,722	13,568,478	2,364,345	30,118,889
1993	3,392,120	13,568,478	13,568,479	3,392,120	33,921,197
1994	3,374,305	13,497,218	13,497,218	3,374,305	33,743,046
1995	3,365,397	13,461,588	13,461,589	3,365,397	33,653,971
1996	2,939,018	11,756,074	11,756,074	2,939,018	29,390,184
1997	3,321,487	13,285,948	13,285,948	3,321,487	33,214,870
1998	3,243,240	12,972,960	12,972,960	3,243,240	32,432,400
1999	3,214,120	12,856,480	12,856,480	3,214,120	32,141,200
2000	3,170,440	12,681,760	12,681,760	3,170,440	31,704,400
2001	3,192,521	12,770,084	12,270,084	3,192,521	31,425,210
2002	3,297,599	13,190,396	13,690,396	3,297,599	33,475,990
2003	3,616,340	14,465,360	14,465,360	3,616,340	36,163,400

Source: FHWA data. Does not include \$1.75 million from FY1976 special fiscal quarter. FY2003 figures based on year total broken into I-4-4-I shares. According to FHWA, in FY2003 the THP was not subject to the obligation limitation top-off.

Non-THP Highway Funding for the Territories

The territories may receive highway funding from sources other than the THP, including the Emergency Relief Program, the High Priority Projects Program, and certain highway safety programs. The territories are not, however, eligible for Federal Highway Administration discretionary programs. The eligibility for these programs is limited by statute to the states and the District of Columbia, usually with Puerto Rico as the only exception.

Emergency Relief

The largest other source of federal highway funding is the Emergency Relief Federal-Aid Highway program (ER). The territories are subject to storm damage and other natural disasters, and may request ER assistance to restore damaged roads to their pre-disaster condition. From FY1990 to FY2000 the territories received \$72.9 million in ER funds, American Samoa received \$22.9 million, Guam received \$39.8 million, and the Virgin Islands received \$10.2 million.

High Priority Projects

American Samoa and the Virgin Islands have also participated in the High Priority Project Program (HPP) and its ISTEA predecessor, the Demonstration, Priority, and Special Interest Projects Program. Projects under these programs are designated in the text of the authorizing legislation. According to FHWA, since October 1991, a total of \$48.6 million has been authorized and \$44.1 million has been allocated for projects in these same two territories.⁹

Safety Programs

Under chapter 4 (Highway Safety) of Title 23 of the U.S. Code the territories are defined as “states” and therefore receive Section 402 formula grants each year and may apply for incentive grants under sections 405 (occupant protection incentive grants), section 410 (alcohol-impaired driving countermeasures), section 411 (state highway safety data improvements), and TEA-21 Section 2003 (b) (child passenger protection education grants). Under these sections the territories together received \$2.1 million for FY2000 and \$2.3 million for FY2001.¹⁰ The National Highway Traffic Safety Administration (NHTSA) administers these sections.

As mentioned earlier, the territories are not considered as states under FHWA programs. This makes them ineligible for FHWA safety grants under sections 157 (safety incentive grants for the use of seat belts) and 163 (safety incentives to prevent operation of motor vehicles by intoxicated persons).

The territories participate in the Motor Carrier Safety Assistance Program (MCSAP). MCSAP provides grants to help the territories enforce their truck and bus safety regulations. As of FY2001, each of the territories began receiving a fixed amount of \$350,000 annually for MCSAP.

⁹ FHWA data.

¹⁰ NHTSA data.

Congressional Issues and Options

The arguments for and against federal-aid highway assistance to the territories have changed little since the debate of the 1960s that culminated in the founding of the THP. With the approaching reauthorization of TEA-21 the overall arguments are worth reviewing.¹¹

Pro

The arguments generally made in support of federal aid to the territories, including highway aid, are usually framed in terms of the transportation and development needs of the territories, the benefits the territories provide to the United States, and their limited enfranchisement. In general, population growth and an increase in the number of vehicles on territorial roads has increased traffic congestion in all the territories. Although significant improvements have been made under the THP, some territorial roads continue to be under stress from inadequate capacity while other roads continue to be substandard and hazardous. Because the territories are all islands, much of the road construction is more expensive than in the 50 U.S. states. Remoteness from suppliers is especially a problem for the Pacific territories. In addition, the territories are significantly less well off than the states, have a lower per capita domestic product, and pay higher prices for many basic goods. Advocates of highway assistance to the territories argue that the territories are not wealthy enough to provide for their road infrastructure needs without federal assistance. Supporters also argue that the goal of bringing the territories into economic parity with the states is an established principle of the federal government.¹² Federal highway assistance is seen as falling under this principle. Advocates of assistance also point out that all the territories were acquired for strategic purposes and contend that they continue to be of current or potential strategic value to the United States. Three of the territories, Guam, American Samoa, and the Virgin Islands are each represented in Congress by a single non-voting representative in the U.S. House of Representatives.¹³ The Commonwealth of the Northern Mariana Islands has no congressional representative. Some advocates of assistance to the territories see a link between this limited representation and what they see as low levels of federal assistance.

Con

The main objection to full or expanded territorial participation in federal-aid highway program (FAHP) is that the territories do not pay the taxes that support the program. The FAHP is funded from the highway account of the HTF. The HTF is supported by highway user taxes (mostly fuel taxes) paid for by highway users in the 50 states. In addition, under TEA-21, each state's

¹¹ This pro/con discussion is an encapsulation of both published sources and also discussions with a variety of FHWA officials at both the national and regional levels. Many of the arguments concerning the appropriateness of federal highway assistance mirror the arguments concerning economic assistance and compensation for the restricted scope of territories' citizenship rights. See *Overseas Territories and Commonwealths of the United States of America*, by Daniel H. MacMeekin. Internet location: http://www.eurisles.com/textes/statut_iles/AmericaFR.htm; *Territorial Highway Study*; U.S. Congress. House. *Articles of Relations for U.S. Territories*. Hearing, May 24, 1994. Serial no. 103-90. 303 p.; see also territorial websites and the congressional websites for the Congressional Representatives of the territories. The U.S. Census Bureau website, <http://www.census.gov>, includes brief histories of the territories as well as detailed demographic and economic information.

¹² See MacMeekin. *Overseas Territories*. p. 5-6; also P.L. 98-454 *To Enhance the Economic Development of Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and for other purposes*.

¹³ These representatives are only able to vote in committee.

percentage share of the aggregate spending on the “core” highway programs is adjusted every fiscal year to ensure that each state’s share of the apportionments for these programs is at least a 90.5% return on its estimated contributions to the highway account of the HTF. The link that this “minimum guarantee” makes between the amount of taxes paid and the federal assistance received, according to some, strengthens the arguments that most FAHP programs should be restricted to the states whose user taxes support the HTF. Opponents of spending HTF money on territorial roads argue that the territories should raise their own territorial fuel taxes to provide for their highway funding needs. Their small size, both in territory and population, compared with the smallest of the states also forms the basis of arguments against expanded program participation for the territories. All four territories’ populations combined are less than the population of the state with the least population, Wyoming, whose land area is much greater. Their combined land areas together are only 532 square miles larger than Rhode Island, whose population is more than 2 ½ times as large. If the territories were allowed to participate in all or most of FAHP programs, they would qualify for the various program minimums which, because of the territories small size, would actually, some argue, be excessively generous. The final argument is simply that the FAHP is based on the assumption of a federal-state partnership that is different than the federal relationship with the territories. From this perspective, federal highway assistance to the territories should be accomplished outside the existing FAHP programs and should not draw from the HTF for funding.

TEA-21 Reauthorization Options

As the debate over the reauthorization of federal surface transportation programs continues, Congress may address a number of options concerning federal highway funding for the territories.¹⁴ The overall issue for the territories is the appropriate extent of their participation in the FAHP. Options range from elimination of the THP to expanding territorial participation in FAHP programs to equal that of the states. Elimination of the THP is unlikely since the federal commitments to economic development of the territories would probably be strong enough to prevent elimination of the THP. On the other hand, the fact that the territories do not pay the taxes that provide revenue to the HTF will probably preclude them from full participation in the programs that the HTF pays for. Any reauthorization debate concerning federal highway assistance to the territories will probably be over more modest changes.

In a legislative sense, it is the territories’ non-state status that excludes them from most federal highway programs. Because the definition of a “state” in Title 23 U.S.C. section 101 does not include the territories, the only programs that the territories are eligible for are programs whose legislative language specifically includes them or defines them as a state for the purposes of the particular program.

Expanding the Territories’ Eligibility to Other FAHP Programs

As mentioned earlier, because of the link the minimum guarantee makes between a state’s federal highway tax revenues and the amount a state receives under the core highway programs, it is doubtful that the territories will be granted participation in the core highway programs beyond their existing participation in NHS. However, territorial projects could be made eligible for other FAHP programs, referred to as the allocated or discretionary programs, that are under the control

¹⁴ The TEA-21 authorization ends with the close of the 2003 fiscal year, September 30, 2003.

of the FHWA. These programs are much smaller than the main core highway programs and their grants are competed for on a project by project basis or are designated by congressional earmarking. To make the territories eligible, Congress could pass amending language that would define the four territories collectively as a state under one or more of the program sections in Title 23 U.S.C. Even if the territories are made eligible for any of these programs, however, there is no guarantee any grants will be awarded to territorial projects.

Changing the Funding of the THP

As mentioned earlier, TEA-21 changed the THP's funding from 1% of National Highway System funding (set under ISTEA) to a fixed annual amount of \$36.4 million through FY2003. This amount is significantly lower than the THP would have received had the program retained the 1% NHS set-aside the program had under ISTEA. The issue of restoring the 1% set-aside could be raised during the reauthorization debate. Another possibility would be to define the four territories as a state for allocation purposes under NHS. This would qualify THP for the NHS minimum allocation equal to ½% of NHS and Interstate Maintenance allocations combined. Another option would be to argue for a continued dollar amount set-aside but at a higher level, perhaps one that would more closely approximate the outcome of a 1% NHS set-aside.

Since early 2001 the federal revenue outlook has become increasingly constrained. This may be the greatest obstacle to increasing federal aid to the territories.

The Bush Administration Reauthorization Proposal: the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 (SAFETEA) (H.R. 2088)

SAFETEA, which was introduced by request on May 14, 2003, would make a number of changes to the THP. Section 1808 proposes a number of changes to the various parts of Title 23 of the U.S. Code that are relevant to the THP. Some of the changes are technical and can be seen as adding clarity to the statute, while other changes have significant program effects. Overall the bill could be seen as broadening the project eligibility for THP road projects. It does this specifying the eligibility of "collector roads,"¹⁵ by allowing the Secretary of Transportation to apply any Federal-Aid Highway eligibility provision to THP projects, and by allowing THP participation in ferry and ferry facility projects. The bill also ends the existing prohibition on tolls on territorial roads. On the other hand the bill does add some limitations including dropping the TEA21 eligibility language that made seaports and airports eligible, as well as specifically prohibiting THP spending on local roads and for routine maintenance. Funding for THP is held at the annual TEA21 level of \$36.4 million for the life of the reauthorization and the federal share is maintained at 100%. The bill also requires each of the territories to negotiate a new THP agreement with the Secretary of Transportation within 12 months of enactment.

¹⁵ Collector roads collect and disperse traffic between the arterial highways (roads which generally handle the long trips) and the lower level roads (local roads, streets and other public paths or ways). See U.S. Federal Highway Administration. *Highway Statistics, 2001*. p. V-2. Although collector roads have been included in the THP network, SAFETEA adds the term to the eligibility language of the statute.

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