

Public Roads

A JOURNAL OF HIGHWAY RESEARCH



(courtesy Texas State Highway Department)

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(see notice on inside cover)

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A JOURNAL OF HIGHWAY RESEARCH

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PUBLIC ROADS ADMINISTRATION
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E. A. STROMBERG, Editor

Statutory Authority of State Highway Departments in Municipalities

Reported by DAVID R. LEVIN
Chief, Land Studies Section
and MARION G. MARKHAM
Assistant Highway Economist

By the Division of Financial and
Administrative Research
Public Roads Administration

THE CONGESTION that motor travel encounters today in the vicinity of and within the cities and metropolitan areas of the United States constitutes a formidable traffic barrier. These urbanized areas are the sources and destinations of the greater portion, by far, of the heavy flow of traffic that moves over the Nation's highways. Vehicle-mileage of travel on city streets alone constitutes approximately 50 percent of all travel. The principal urban arteries and main commercial streets carry a large percentage of the urban traffic. Because of these ever-increasing demands being made on the urban highway plant, urban accommodations of the State highway system are widely recognized to be grossly inadequate.

Several decades ago, Federal-aid highway legislation and many State highway statutes specifically prohibited the application of funds to urban extensions of the Federal-aid and State highway systems. The then superior need of rural-road improvement made such a prohibition reasonable.

Both Federal and State enactments of the last 5 years, however, have taken cognizance of the need for urban-road improvement. Among other things, the National System of Interstate Highways has been authorized and designated—a system that includes the more important transcity and interregional connections of the State systems. Substantial funds have been specifically earmarked for expenditure in prescribed urban areas.

It was not an objective of this investigation to determine whether present statutory authority of State highway departments in urban areas is commensurate with the present need. Rather, the study seeks to present, as objectively as possible, factual information with respect to legislative authorization for financing, land acquisition, construction, and maintenance of various classes of urban highways under State control.

These consist of urban extensions of the State primary system, of which Federal-aid highways are almost always a part, and of other urban streets, such as those leading to State institutions, or secondary routes. A review of controlled-access highway legislation, insofar as it relates to State highway department authority in cities, is also made.

The growth of urban concentrations of traffic has forcefully called attention to the urgent need for highway improvement in the cities of the United States. Urban extensions of the State highway systems frequently are characterized by great physical and functional inadequacies, and are costly to modernize. Nevertheless, the statutory authority of State highway departments in urban areas is still decidedly limited.

Twenty-one States have express powers to finance urban extensions of State primary highways; 16 are specifically authorized to acquire lands for them; 15 States may construct and 20 may maintain such urban routes without restriction. Only six States have unlimited statutory authority in all four fields. In the absence of express authority, the doctrine of implied powers may apply, but the legal status so derived is sometimes precarious.

While the most frequent limitation on State authority in urban areas is placed on size as determined by population, a decided trend is discernible toward removal of these restrictions. Among other limitations, 10 States are restricted in regard to the width and type of highways they can build in cities; and 12 States have varying requirements for local consent before urban extensions of the State highway system can be established.

Even more circumscribed is the statutory authority of the States with respect to urban highways other than extensions of the State primary system. This apparent lack of authority may be offset in part, however, by the power to designate streets in urban areas as extensions of the State system, granted in about half the States.

Almost invariably, in the 28 States where expressways have been sanctioned by law, the authority of the State highway department to establish controlled-access highways in cities is qualified in varying degrees.

More than half the States allocate portions of their highway-user revenues to urban areas, often with the express provision that such funds be used for the improvement of urban highways other than extensions of the State system.

The investigation is based in part upon an analysis of pertinent sections of the State statutory codes, and in part upon a circularization of the State highway departments. Some of the provisions include administrative practice pursuant to law.

It will be noted in table 1 that, with respect to urban extensions of State highways, the authority of many States may exist only by implication from express powers granted.

URBAN EXTENSIONS OF STATE PRIMARY HIGHWAYS

While State highway departments possess wide powers with respect to the planning, financing, acquisition of lands for, construction, and maintenance of rural State highways, this study reveals that their comparable authority with respect to those portions of

State primary routes traversing incorporated areas is much more limited.

Only six States¹ have unrestricted statutory authority to finance, acquire lands for, construct, and maintain urban extensions of State primary highways (see table 1). One of the broadest yet most concise enactments is to be found in Louisiana. The Department of Highways is authorized to include streets and roads in cities, towns, and villages within the State highway system when such streets and roads connect two State highways or form a continuation of any highway within the State highway system: "The highway department shall have full authority to acquire property for, finance, construct, maintain, and operate such highways passing through cities, towns, and villages of the State, together with such

¹ California, Indiana, Louisiana, Massachusetts, New Jersey, and Washington.

Table 1.—Summary of statutory authority of State highway departments concerning urban extensions of State primary highways

State	Authority to finance				Authority to acquire land				Authority to construct				Authority to maintain			
	Yes	No	Qualified	Implied	Yes	No	Qualified	Implied	Yes	No	Qualified	Implied	Yes	No	Qualified	Implied
Alabama			X				X		X				X			
Arizona				X				X				X				X
Arkansas				X				X				X				X
California	X				X				X				X			
Colorado	X				X				X						X	
Connecticut			X					X			X				X	
Delaware	X							X			X		X			
Florida	X							X			X		X			
Georgia	X				X						X				X	
Idaho	X				X				X						X	
Illinois			X		X						X				X	
Indiana	X				X				X				X			
Iowa			X		X						X				X	
Kansas			X				X				X				X	
Kentucky	X						X				X		X			
Louisiana	X				X				X				X			
Maine	X							X				X			X	
Maryland				X				X			X				X	
Massachusetts	X				X				X			X				
Michigan			X				X		X				X			
Minnesota			X					X			X				X	
Mississippi			X				X				X		X			
Missouri	X					X			X				X			
Montana			X			X					X				X	
Nebraska				X				X				X			X	
Nevada				X				X				X				X
New Hampshire			X		X						X		X		X	
New Jersey	X				X				X				X			
New Mexico				X				X				X				X
New York			X				X				X				X	
North Carolina								X			X		X			
North Dakota	X							X			X				X	
Ohio	X							X			X				X	
Oklahoma	X							X			X		X			
Oregon	X				X				X			X		X		
Pennsylvania			X				X				X				X	
Rhode Island			X		X						X		X			
South Carolina			X		X						X		X			
South Dakota				X				X				X			X	
Tennessee	X				X						X		X			
Texas			X					X			X				X	
Utah	X						X				X		X			
Vermont			X					X			X				X	
Virginia			X		X				X						X	
Washington	X				X				X				X			
West Virginia			X					X			X				X	
Wisconsin	X					X					X				X	
Wyoming			X					X			X				X	
Total	21	0	19	8	16	4	8	20	15	0	26	7	20	0	24	4

off-street parking facilities as may be deemed necessary in connection therewith.”²

Twenty-one States, and perhaps 8 others by implication, have ample powers with respect to financing urban extensions of State highways; 16 States are specifically authorized to acquire lands for such projects; 15 States, and perhaps 7 others by implication, may construct them; and 20 States, and perhaps 4 others by implication, may maintain without restrictions such urban routes. Implied authority to improve urban extensions of the State highway system is deemed to arise out of the express grant of statutory authority to State highway departments to finance, construct, and maintain State highways. Table 3, pages 166-81, contains a summary of the pertinent legislative provisions.

Urban Federal-aid System

State statutes generally do not deal with urban extensions of Federal-aid primary high-

² Louisiana Acts 1942, No. 4, sec. 38; 1944, No. 65, sec. 3.

ways as a separate class of road facilities because practically every mile of such extensions is contained in the more inclusive State primary systems. Accordingly, legal authorization with respect to urban extensions of the State primary systems is deemed to apply to urban extensions of the Federal-aid highways with like force and effect.

Moreover, the States generally have assented to the purposes and provisions of the Federal-aid laws and generally have provided for State cooperation with the Federal Government in effectuating the objectives of the Federal-aid highway program. How much authority of a specific character over urban Federal-aid highways such State legislation grants, apart from the provisions relating to urban extensions of State primary highways, is a matter for conjecture.

It may be helpful to review a few typical enactments of this nature. The Illinois statute is typical of the more generalized of these laws:

“ * * * the General Assembly * * * hereby assents to the provisions, terms, conditions, and purposes of the act of Congress, approved July 11, 1916, entitled ‘An act to provide that the United States shall aid the States in construction of rural post roads, and for other purposes,’ known as the Federal-Aid Road Act, together with amendments to said act subsequently enacted by the Congress of the United States” (L. 1917, p. 144, sec. 1; Laws 1933, p. 958, sec. 1).

The West Virginia act is more detailed:

“The legislature of the State of West Virginia hereby renews its assent to the provisions of the act of congress approved July 11, 1916, entitled ‘An act to provide that the United States shall aid the States in the construction of rural post roads and for other purposes.’ The State road commission is hereby authorized to enter into contracts and agreements with the United States Government relating to the survey, construction, and maintenance of roads under the provisions of said act of Congress, to submit such scheme or program of construction and maintenance as may be required * * * and to do all other things necessary to carry out the cooperation contemplated and provided for by said act * * *” (L. 1921, ch. 112).

The Indiana law is typical of provisions specifically involving the Federal-aid Highway Act of 1944. The State Highway Commission is granted authority:

“ * * * to cooperate with the Federal Government for postwar construction of highways and bridges under the act of Congress, approved December 20, 1944 * * * and to do and perform all acts as in said amendatory act provided, in order to procure for the State of Indiana the proper apportionment of Federal funds available to the State of Indiana for the construction, maintenance, and improvement of highways under the provisions of said amendatory act” (Acts of 1945, ch. 298, sec. 1, p. 1289).

The South Carolina 1945 act authorizes the State Highway Department to cooperate with the Public Roads Administration in carrying out the provisions of the Federal-aid Highway Act of 1944 and amendments thereto, and to do all things necessary to carry out the provisions of said Federal-aid Highway Act, including but not limited to, the planning, construction, and supervision of all eligible projects regardless of whether such projects are a part of the State highway system; but stipulates that if such projects are not on the State highway system local units must match Federal funds. The act further authorizes the State Highway Department and political subdivisions to do all things necessary to carrying out the act, including the acquirement of right-of-way (South Carolina Act 223, Laws 1945, sec. 53).

Financing

More State highway departments possess unqualified authority with respect to the financing of urban extensions of State primary highways than with respect to any other aspect of authority dealt with in this study. Twenty-one jurisdictions are granted such statutory authority.³ Additionally, similar authority may be implied in eight other States from the statutory grant of general authority with respect to the State highway system, where urban extensions are deemed to be an integral part of that system,⁴ or for other reasons indicated in subsequent sections.

The authority is qualified in the remaining 19 States. The nature of the restrictions is indicated as follows:

- Alabama:* Limited to 50 percent of right-of-way costs.
- Connecticut:* Limited to one north-south and one east-west route through each city.
- Illinois:* Limited to type and width required to care for traffic and parking needs.
- Iowa:* Not more than 25 percent of primary road fund to be spent for this purpose in one year.
- Kansas:* Limited to type and width of highway outside city.
- Michigan:* Must be requested by governing body; 100-percent participation only in cities under 20,000 population; 100-percent participation only to width of highway outside city.
- Minnesota:* Limited to normal width of highway outside city.
- Mississippi:* Limited to towns of less than 2,500 population.
- Montana:* Not unless Federal funds are involved.
- New Hampshire:* Not in compact areas of cities and towns over 2,500 population.
- New York:* Limited to highways in special categories.
- Pennsylvania:* Limited to highways in special categories.
- Rhode Island:* Subject to approval of city.
- South Carolina:* Limited as to amount of funds which may be spent in cities over 2,500 population.
- Texas:* Subject to agreement with governing body of municipality.
- Vermont:* Limited to towns under 1,000 population.
- Virginia:* Limited to 50 percent of cost in cities over 3,500 population.
- West Virginia:* Limited to same obligation as for State highways outside municipality.
- Wyoming:* Limited to 50 percent participation in construction costs in cities over 1,500 population.

As will readily be noted, some of the qualifications on authority are substantial in character, while a few are more apparent than real.

Land Acquisition

One of the most significant limitations on the authority of State highway departments in urban areas concerns the matter of acquiring the necessary rights-of-way. State highway departments in only 16 States have been granted unequivocal authority to acquire lands needed for highway improvements within the corporate limits of cities.⁵ In eight other States, the right to acquire

highway right-of-way in urbanized areas is qualified in various ways, as follows:

- Alabama:* Contingent on failure of county or municipality to acquire land; also limited to 50 percent of cost.
- Kansas:* May contribute to cost in cities of third class.
- Kentucky:* State may participate in cost of new or additional right-of-way.
- Michigan:* Subject to municipal consent.
- Mississippi:* Limited to cities under 2,500 population (presumably) or where houses average more than 200 feet apart for a mile or fraction thereof.
- New York:* Limited to highways in specified categories.
- Pennsylvania:* Limited to highways in specified categories.
- Utah:* Under agreement with municipality.

No authority at the State level is conferred in four States,⁶ and in two of them—New Hampshire and Wisconsin—the law specifically reserves the right of acquisition to the local units.

Missouri has been placed in this category because no provision for acquisition of land therefore is included in the 1945 constitution which authorizes the State to finance, construct, and maintain "any highway in any city or town which is found necessary as a continuation of any State or Federal highway, or any connection therewith, into and through such city or town." Prior to enactment of the new constitution, the State's authority to finance, construct, and maintain urban extensions of State highways applied only to such highways in cities under 2,500 population. No authority to acquire land for such highways existed, except by implication; the State having such authority with respect to State highways generally.

Montana appears to have no statutory provision covering the improvement of urban extensions of State highways as such. Although it has been assumed that the State Highway Commission may finance, construct, and maintain such urban extensions if Federal funds are involved, no reference can be found to the acquisition of right-of-way.

Implied authority to acquire land

The laws in the remaining 20 States contain no specific reference to the matter of land acquisition. Whether these States have the authority by implication to acquire land for urban extensions of the State primary system, may be questioned. State statutory authority to construct urban extensions of State highways might conceivably be construed to imply the right to acquire necessary lands therefor, on the assumption that the term "highway" includes a city "street."⁷

The laws of 13 of the 20 States, lacking express authority with respect to acquisition of lands in urban areas, specifically bestow on the State highway department the right to construct urban extensions of State highways and also to acquire lands for State highways generally.⁷

³ California, Colorado, Delaware, Florida, Georgia, Idaho, Indiana, Kentucky, Louisiana, Maine, Massachusetts, Missouri, New Jersey, North Carolina, Ohio, Oklahoma, Oregon, Tennessee, Utah, Washington, and Wisconsin.

⁴ Arizona, Arkansas, Maryland, Nebraska, Nevada, New Mexico, North Dakota, and South Dakota.

⁵ California, Colorado, Georgia, Idaho, Illinois, Indiana, Iowa, Louisiana, Massachusetts, New Jersey, Oregon, Rhode Island, South Carolina, Tennessee, Virginia, and Washington.

⁶ Missouri, Montana, New Hampshire, and Wisconsin.

⁷ Connecticut, Delaware, Florida, Maryland, Minnesota, North Carolina, North Dakota, Ohio, Oklahoma, Texas, Vermont, West Virginia, and Wyoming. In the case of Ohio, however, the authority extends to the construction of urban extensions of State highways and to the acquisition of lands for enterprises entrusted to its supervision. Such authority is construed to be substantially similar to the other 12 States in this category.

The contention that the remaining seven States⁸ have such authority by implication has even less support. In these States the highway department's authority to construct urban extensions of State highways itself can only be said to be by implication, as indicated in the following section.

While the doctrine of implied authority may apply in certain instances to the acquisition of lands for urban highway purposes, its legal status is very precarious. An outstanding legal authority has indicated that it is a recognized rule of construction that one power is implied in the grant of another when the latter cannot be exercised or carried into effect without the exercise of the implied power, since anything within the manifest intention of the makers of a statute is as much within the statute as if it were within the letter of the law. But it is further asserted that there is no power by implication to take private property for public use merely because the final objective cannot be attained without the use of private property. Although the contrary has been held, according to what is held to be the better rule, a statute merely granting power to lay out and establish streets does not authorize the condemnation of lands for such purposes.⁹

The matter of implied authority to acquire lands for urban extensions of State highways, in the absence of express statutory provisions on the matter, was the substance of an attorney general's opinion in Texas several years ago,¹⁰ when the State Highway Department sought to construct a State highway within the boundaries of a home-rule city. Unwilling to acquire the necessary right-of-way, the city consented to have the property condemned by the State Highway Department. The attorney general of Texas ruled that the department lacked authority to do so. Three issues were involved:

Issue: Whether the State Highway Department, or the county, might acquire by purchase or condemnation the right-of-way required in a home-rule city for the construction of a State highway.

Answer: Although the legislature could have transferred jurisdiction of cities and towns over particular highways therein to the State Highway Department, nevertheless, it neither expressed nor implied any intention to do so.

Issue: Whether the city, either by ordinance or agreement with the State, might legally delegate, transfer, or pass on to the State Highway Department or the county, acting for the Department, its authority to condemn such right-of-way.

Answer: Where the legislature delegates the right to exercise the power of eminent domain, the grantee of the power cannot surrender, transfer, or redelegate the same to another unless expressly authorized by the statute conferring the power.

⁸ Arizona, Arkansas, Maine, Nebraska, Nevada, New Mexico, and South Dakota.

⁹ See *The Law of Municipal Corporations*, by Eugene McQuillin, 2d ed., 1943, rev. vol. 4, sec. 1580, and 1947 cumulative supplement, 2d ed., rev. Case materials are included.

¹⁰ See *Opinions of the Attorney General, Texas, 1946*, Opinion No. 0-7108.

Issue: Whether the Governor of Texas might obtain such right-of-way for the State Highway Department, acting under the provisions of a State statute providing for acquisition of land by the Governor for public use.

Answer: Although the Governor had statutory authority to acquire any land necessary for any public use, the legislature had specifically delegated authority to cities and towns over their streets, which prevailed over the authority of the Governor to acquire land in this case.

A similarly restricted construction of State highway department authority with respect to land acquirement in urban areas is found in other States. Prior to a 1945 enactment in the State of Washington, enlarging the authority of the Department of Highways in urban areas, the attorney general declared the Department had no legal authority to acquire land in its own name within incorporated cities and towns for highway purposes.¹¹ The "power of condemnation within cities and towns in the State could only arise by construction or by implication * * *. If the power of condemnation does exist, it must be by virtue of specific and clear statutory direction and cannot arise by implication or construction. If construction of a statute is necessary to sustain the power, no such power can exist."¹² Accordingly, it is apparent that State highway department authority with respect to acquisition of land for urban extensions of State highways which exists solely by implication is extremely tenuous.

Construction

The present status of statutory authority of State highway departments in urban areas with respect to financing and land acquisition has now been sketched. The next logical element of authority deals with the right to construct urban extensions of primary State highways. Highway departments in 15 States appear to have the unlimited statutory right to construct such urban facilities.¹³

In 26 other jurisdictions, the right to construct urban roads is restricted in the following manner:

- Connecticut:* Limited to one north-south and one east-west route through city.
- Delaware:* May not change width of streets without consent of town.
- Florida:* Type of construction shall conform to that of State highway.
- Georgia:* Construction shall comply with all reasonable municipal ordinances, etc.
- Illinois:* To type and width required to care for traffic and parking needs.
- Iowa:* Subject to approval of council of municipality; also may not exceed width of primary road system.
- Kansas:* Type to be determined by agreement between city and State Highway Commission; limited to width and type of highway approaching city.
- Kentucky:* Subject to approval of city authorities.
- Maryland:* Must be in conformity with grades approved by municipal authorities.

- Minnesota:* Only to width outside city; plans and specifications must be approved by municipal authorities.
- Mississippi:* To width of State highway outside city limits; only in towns of less than 2,500 population.
- Montana:* Not unless Federal funds are involved.
- New Hampshire:* Not in compact areas of cities over 2,500 population.
- New York:* Limited to highways in special categories.
- North Dakota:* To normal width of State highways.
- Ohio:* Subject to approval of governing body of municipality if not on Federal-aid system.
- Oregon:* State may not change or establish grade without consent of governing body of municipality.
- Pennsylvania:* Limited to highways in special categories.
- Rhode Island:* Subject to approval of city.
- South Carolina:* Subject to approval of city in municipalities over 2,500 population.
- Tennessee:* To width and type State may deem proper but such width shall not be less than 18 feet.
- Texas:* Under agreement with city.
- Utah:* Must conform to direction and grade of other streets in such city.
- Vermont:* Limited to State highways in towns under 1,500 population and supervision of "State-aid connecting links" improved with State funds.
- West Virginia:* Limited to same obligation as for State highways outside municipalities.
- Wisconsin:* Construction to be same as for State trunk highways.

In the remaining seven States, the authority to construct urban extensions of the State primary system probably may be implied from a general grant of authority.¹⁴ It is obvious, however, that a judicial interpretation of existing State authority can always upset any presumptions under implied powers and, accordingly, express authority is always to be preferred.

Maintenance

The right to maintain urban extensions of the State primary system is the remaining element of State highway department authority that needs to be considered. The laws of 20 States grant definite authority to the State highway departments with respect to the maintenance of the urban links of the State highway system.¹⁵ In addition, it is possible that similar authority exists by implication in four other jurisdictions.¹⁶

Authority with respect to maintenance is qualified in the remaining 24 States, in the following manner:

- Colorado:* Only under agreement with city unless remainder of special 3-percent gas-tax fund is used.
- Connecticut:* Limited to portions accepted under statutes pertaining to "State aid" or improved at State expense.
- Georgia:* Must comply with all reasonable municipal ordinances not in conflict with specifications of State Highway Department.
- Idaho:* Limited to cities under 2,500 population; State may enter into maintenance agreements with cities of 2,500 to 6,000 population.
- Illinois:* Only to type and width required to care for traffic and parking needs.
- Iowa:* Subject to approval of city council; limited to width of primary road system.
- Kansas:* Limited to cities of third class; State pays certain amount per mile to first and second class cities for maintenance.

- Maine:* Limited to cities under 5,000 population, but may maintain in cities over 5,000 population if county does not do so.
- Maryland:* Limited to roads constructed by State; excludes Baltimore.
- Minnesota:* Limited to width outside cities.
- Montana:* Only if Federal funds are available for construction.
- Nebraska:* Limited to 100-percent participation in municipalities under 2,500 population and 50-percent participation where population is between 2,500 and 25,000.
- New Hampshire:* Not in compact areas of cities and towns of over 2,500 population.
- New York:* Limited to highways in special categories.
- North Dakota:* Limited to normal width of State highway.
- Ohio:* Subject to approval of governing body of municipality.
- Pennsylvania:* Limited to highways in special categories.
- South Dakota:* Not in cities over 2,500 population.
- Texas:* Under agreement with city.
- Vermont:* Limited to cities under 1,500 population.
- Virginia:* Limited to cities under 3,500 population.
- West Virginia:* Limited to obligation State is required to assume outside cities.
- Wisconsin:* Limited to cities under 2,500 population.
- Wyoming:* Limited to cities under 1,500 population.

Population Limitations

One of the most frequent limitations on State authority in urban areas is placed on size as determined by population; the statutes of 14 States containing such restrictive provisions.¹⁷ In Mississippi and New Hampshire, for example, the State highway departments have no authority in cities of over 2,500 population. In Vermont, State jurisdiction in cities of 1,500 or more inhabitants is restricted to streets where houses average 100 feet or more apart for the space of one-half mile, a provision that had its parallel in the Federal-aid Road Act of 1916 and its amendments.

Some States place restrictions upon the amount of financial aid that may be given to cities in certain population groups. In Michigan, for instance, 100-percent State participation is limited to cities under 20,000 population, with a relative decrease in proportion of State funds to 50 percent in cities of over 50,000 persons. Virginia may provide only 50 percent of the cost of State highway extensions in cities over 3,500, while Wyoming is limited to 50-percent participation in cities over 1,500 population. South Carolina has a comparable provision.

Maintenance provisions and population restrictions are frequently interrelated. State maintenance authority is confined to the smaller urban areas in 10 States.¹⁸ Vermont and Wyoming statutes, to illustrate, limit State maintenance to cities of 1,500 population or under. Idaho, Nebraska, New Hampshire, South Dakota, and Wisconsin may finance 100-percent maintenance costs only in cities under 2,500 population; while in Maine and Virginia, the State highway departments are not responsible for maintenance in cities over 3,500 and 5,000 inhabitants, respectively. The Kansas State Highway Commission pays cities of the first and second class \$250 per mile

¹⁷ Idaho, Kansas, Maine, Michigan, Mississippi, Nebraska, New Hampshire, New York, South Carolina, South Dakota, Vermont, Virginia, Wisconsin, and Wyoming.

¹⁸ Idaho, Kansas, Maine, Nebraska, New Hampshire, South Dakota, Vermont, Virginia, Wisconsin, and Wyoming.

¹¹ Based upon an informal opinion of the attorney general rendered August 31, 1944, to the Honorable Burwell Bantz, Director of Highways, State of Washington.

¹² See *State ex rel Chesterley v. Superior Court*, 19 Wash. 824-144 Pac. (2d) 916 (1944).

¹³ Alabama, California, Colorado, Idaho, Indiana, Louisiana, Massachusetts, Michigan, Missouri, New Jersey, North Carolina, Oklahoma, Virginia, Washington, and Wyoming.

¹⁴ Arizona, Arkansas, Maine, Nebraska, Nevada, New Mexico, and South Dakota.

¹⁵ Alabama, California, Delaware, Florida, Indiana, Kentucky, Louisiana, Massachusetts, Michigan, Mississippi, Missouri, New Jersey, North Carolina, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Utah, and Washington.

¹⁶ Arizona, Arkansas, Nevada, and New Mexico.

for maintenance, while cities of the third class may have their State highway routes maintained by the State or be paid \$250 per mile for doing the work themselves.

A decided trend toward the removal of these State statutory population restrictions is now discernible.¹⁹ While some States began removing these limitations in the early 1930's, more recent illustrations are abundant. For example, the Colorado Legislature amended the State highway law in 1945, eliminating a provision restricting State assistance in financing and constructing State highway extensions to those within incorporated cities or towns having a population of less than 2,500. In the same year, Indiana removed a statutory limitation on State Highway Commission authority in cities of the first class, thereby making State road improvements possible in Indianapolis. Kentucky, Missouri, Rhode Island, South Carolina, Virginia, Wyoming, and Wisconsin provide other recent illustrations.

Type and Width Restrictions

Ten State statutes²⁰ contain restrictions relating to the width and type of highway that State highway departments are authorized to establish in urban areas. Iowa, Minnesota, and North Dakota laws, for example, limit the width which the State may construct in urban areas to that prevailing outside the corporate limits of the city or town.

In Minnesota and North Dakota, however, the State highway departments are authorized to enter into agreement with the municipality concerning the establishment of a greater width than that which obtains outside the municipality, the extra cost to be absorbed by the local unit. A similar provision in West Virginia merely indicates that the city or town must pay the extra expense if the cost of the portion of the road within the urban area exceeds that outside the corporate limits for comparable facilities. In Michigan, the State Highway Department may participate to the extent of 50 percent of the cost of any additional width.

The law in Florida provides that the type of construction within urban areas shall conform to that used on State rural roads generally, while the Kansas statute limits the width and type of improvement within municipalities to that outside.

¹⁹ A counterpart of this trend also exists with respect to Federal-aid legislation. The Federal-aid Road Act of 1916 contained a restriction on the application of Federal funds that excluded "every street and road in a place having a population, as shown by the latest available Federal census, of two thousand five hundred or more, except that portion of any such street or road along which the houses average more than two hundred feet apart" (sec. 2). This section was repealed by the Hayden-Cartwright Act of 1934 (sec. 13). The objective of authorizing highway expenditures in urban areas under the Federal emergency construction program was based primarily upon maximum employment considerations. Aside from the defense highway program initiated in 1941 by the Defense Highway Act, the needs of urban transportation as such were first implemented on an organized basis in the Federal-aid Highway Act of 1944.

²⁰ Florida, Illinois, Iowa, Kansas, Michigan, Minnesota, Mississippi, North Dakota, Tennessee, and West Virginia.

Table 2.—The relationship of urban mileages under State control to primary systems and total urban mileages

State	Urban mileage under State control			Mileage of State primary system	Total urban mileage
	Miles	Percentage of State primary system	Percentage of total urban mileage		
Alabama.....	597	8.1	13.9	7,371	4,306
Arizona.....	67	1.7	5.1	3,864	1,324
Arkansas.....	440	4.5	9.5	9,754	4,609
California.....	1,111	21.7	6.5	5,124	17,218
Colorado.....	411	9.9	11.6	4,170	3,537
Connecticut.....	399	13.7	10.3	2,913	3,862
Delaware.....	103	9.2	19.5	1,118	1,528
Florida.....	987	11.3	8.3	8,737	11,908
Georgia.....	1,418	9.9	26.3	14,389	5,396
Idaho.....	204	3.9	13.3	5,170	1,536
Illinois.....	1,658	13.8	7.4	11,989	22,391
Indiana.....	876	8.4	8.0	10,422	10,990
Iowa.....	1,052	10.8	8.0	9,717	13,144
Kansas.....	506	5.1	7.0	9,896	17,214
Kentucky.....	463	4.4	12.9	10,532	3,585
Louisiana.....	760	16.7	21.0	4,561	3,688
Maine.....	397	12.4	36.8	3,198	11,080
Maryland.....	93	2.1	3.7	4,521	2,518
Massachusetts.....	120	6.2	1.9	1,940	6,226
Michigan.....	1,038	10.9	7.7	9,522	13,526
Minnesota.....	1,294	11.5	11.5	11,221	11,260
Mississippi.....	353	8.9	9.1	3,954	3,882
Missouri.....	731	8.5	5.8	8,612	12,703
Montana.....	194	3.3	8.8	5,807	2,200
Nebraska.....	405	4.4	8.0	9,220	5,056
Nevada.....	66	3.0	15.8	2,224	418
New Hampshire.....	77	4.8	7.5	1,590	1,024
New Jersey.....	378	22.3	4.1	1,697	9,161
New Mexico.....	230	2.3	18.2	10,089	1,266
New York ²				14,225	17,358
North Carolina.....	1,032	9.1	17.4	11,362	15,932
North Dakota.....	199	2.9	23.0	6,963	865
Ohio.....	2,323	12.6	12.0	18,390	19,318
Oklahoma.....	500	4.9	6.5	10,104	7,644
Oregon.....	355	7.4	7.9	4,822	4,467
Pennsylvania.....	2,867	18.2	17.6	15,747	16,312
Rhode Island.....	101	12.2	7.0	831	1,446
South Carolina.....	1,063	12.8	36.1	8,327	2,947
South Dakota.....	170	2.8	7.1	6,030	2,381
Tennessee.....	511	6.7	14.9	7,576	3,424
Texas.....	1,550	5.5	7.2	28,377	21,425
Utah.....	558	10.5	17.7	5,302	3,151
Vermont.....	55	3.0	7.0	1,804	787
Virginia.....	277	3.0	6.9	9,324	13,999
Washington.....	306	7.4	4.6	4,139	6,583
West Virginia.....	399	8.2	18.2	4,884	2,194
Wisconsin.....	806	7.6	9.5	10,657	8,484
Wyoming.....	48	1.1	5.5	4,382	875
Totals.....	29,548	8.1	9.4	366,568	315,148

¹ Estimated.

² No urban extensions under State control.

Local Consent Requirements

The enactments of 12 States²¹ contain varying requirements for local consent before the State highway department may establish urban extensions of the State system in urban areas. In Iowa, Kentucky, and Rhode Island, the laws make State improvements on urban extensions contingent on the approval of the governing body of the municipality involved. The Ohio code contains a similar provision, excepting from the consent provision, however, any improvement of a State highway in a municipality if it constitutes a part of the Federal-aid highway system.

Not quite as broad a restriction is the Delaware requirement that the State may not change the width of a street without the consent of the town traversed by the highway. Street construction by the State in Maryland

²¹ Delaware, Georgia, Iowa, Kansas, Kentucky, Maryland, Minnesota, Ohio, Oregon, Rhode Island, South Carolina, and Utah.

and Oregon must be in conformity with grades approved by municipal authorities. Plans and specifications in Minnesota must be approved by the municipality. Georgia law indicates that construction shall comply with all reasonable municipal ordinances. The type of improvement undertaken by the State in Kansas is to be determined by agreement between the city and the State highway authorities. Construction of State highway extensions in Utah, undertaken by agreement with local officials, shall conform to the direction and grade of other streets in the municipality.

Designation of Urban Extensions

The power to designate streets in urban areas as additional extensions of the State highway system can provide the basis for improvement of urban highways other than present extensions of the State system.

(Text continued on page 182)

Table 3.—Statutory authority of State highway departments

State	State authority for urban extensions of State primary highways			
	Financing	Acquisition of right-of-way in name of State	Construction	Maintenance
ALABAMA.....	<p>YES</p> <p>But State may finance only 50 percent of cost of right-of-way.</p>	<p>YES</p> <p>But right is contingent upon failure by county or municipality to acquire lands.</p>	<p>YES</p> <p>Provided Director of Highways has designated the streets as connecting links.</p>	<p>YES</p> <p>Provided Director of Highways has designated the streets as connecting links.</p>
ARIZONA.....	<p>YES</p> <p>By implication since State has this authority for State highways and may, by agreement with incorporated cities or towns, designate streets as State highways.</p>	<p>YES</p> <p>By implication since State has this authority for State highways and may, by agreement with incorporated cities or towns, designate streets as State highways.</p>	<p>YES</p> <p>By implication since State has this authority for State highways and may, by agreement with incorporated cities or towns, designate streets as State highways.</p>	<p>YES</p> <p>By implication since State has this authority for State highways and may, by agreement with incorporated cities or towns, designate streets as State highways.</p>
ARKANSAS.....	<p>YES</p> <p>By implication since State is authorized to use any funds available for construction and maintenance of roads embraced in State highway system, which extends through cities.</p>	<p>YES</p> <p>By implication since State has power of eminent domain for carrying out enterprises entrusted to its supervision. Only an easement for highway purposes may be acquired.</p>	<p>YES</p> <p>By implication since State is authorized to construct roads in State highway system, which extends through cities.</p> <p>Construction work to be distributed throughout counties so as to maintain a parity between them as far as practical.</p>	<p>YES</p> <p>By implication since State is authorized to maintain roads in State highway system, which extends through cities.</p>
CALIFORNIA.....	<p>YES</p> <p>State highways in cities shall be maintained, constructed, and improved out of moneys in State highway fund.</p>	<p>YES</p> <p>State may acquire any real property which it considers necessary for State highways including those within cities, or may request governing body of city to acquire necessary land—title or interest to be taken in name of State.</p>	<p>YES</p> <p>Or may enter into cooperative agreement with city for performance of work.</p>	<p>YES</p> <p>Or may enter into cooperative agreement with city for performance of work.</p>
COLORADO.....	<p>YES</p> <p>State highways include streets forming necessary or convenient links for carrying such highways through cities and towns.</p> <p>In addition to other funds, remainder of 3-percent motor-fuel-tax fund, created by act of 1935, to be used for construction and maintenance of streets, roads, or highways on designated State highway system, in proportion to motor-vehicle registration.</p>	<p>YES</p>	<p>YES</p> <p>State highways may be designated, established, and constructed in, into, or through cities and towns when such highways form necessary or convenient connecting links for carrying State highways through cities and towns.</p>	<p>NO</p> <p>Unless funds are derived from remainder of 3-percent motor-fuel-tax fund allocated for improvement of State highways in towns, cities, and counties under 1935 act, State highways in cities or towns to be maintained by city or town, except that by agreement between State and city or town, State may perform or pay for all or part of maintenance.</p>
CONNECTICUT.....	<p>YES</p> <p>But only one east-west route and one north-south route through each city and town shall be included in trunk line highway system.</p>	<p>YES</p> <p>By implication since State may acquire land for lay-out, construction, repair, or maintenance of any trunk line highways, which may extend through cities.</p>	<p>YES</p> <p>But only one east-west route and one north-south route through each city and town shall be included in trunk line highway system.</p>	<p>YES</p> <p>Except those portions of trunk line system not built or not accepted under statutes relating to State aid or not improved at State expense.</p>

State authority for urban highways other than extensions of State primary system				State authority for urban controlled-access highways	Supplementary comments
Financing	Acquisition of right-of-way in name of State	Construction	Maintenance		
<p>No</p> <p>Except on streets abutting a State educational or charitable institution, or through its grounds. In such case State participation may vary from 50 to 100 percent.</p> <p>State also allocates portion of motor-vehicle and fuel-tax funds to cities and towns for construction, improvement, and maintenance of highways and streets.</p>	<p>No</p> <p>Except on streets abutting a State educational or charitable institution or through its grounds.</p>	<p>No</p> <p>Except on streets abutting a State educational or charitable institution or through its grounds.</p>	<p>No</p> <p>Except on streets abutting a State educational or charitable institution or through its grounds.</p>		<p>A 1945 act provides for cooperation with the United States to obtain benefits of Federal-aid Highway Act of 1944.</p> <p>State Highway Department has power to designate State highways.</p>
<p>No</p> <p>Except by implication on State routes designated as potential State highways.</p>	<p>No</p> <p>Except by implication on State routes designated as potential State highways.</p>	<p>No</p> <p>Except by implication on State routes designated as potential State highways.</p>	<p>No</p> <p>Except by implication on State routes designated as potential State highways.</p>		<p>State Highway Commission is authorized to lay out and establish a complete system of State routes and to determine what State routes or portions thereof shall be accepted as State highways. Under designated conditions Commission may designate secondary State highways. State Highway Commission and governing body of cities may select routes of State highways through cities.</p> <p>By administrative act, 10 percent of State highway fund (i. e., one-third of 30 percent allocated to counties) is distributed to cities for improvement, construction, and maintenance of municipal streets and highways in proportion to city population in each county.</p>
<p>No</p>	<p>No</p>	<p>No</p> <p>But State may perform engineering service and supervision of construction on the basis of 100 percent reimbursement by the organization financing the work.</p>	<p>No</p>		<p>State highways are defined by statute to be those primary, secondary, and connecting roads as shown on an official "Map of Arkansas showing State Highway System," including those portions of said routes extending into or through incorporated towns and cities.</p> <p>The State Highway Commission may make such changes in State highway system as it deems necessary but may not eliminate any part of system.</p> <p>Provision is made for cooperation with Federal Government to obtain benefits of Federal-aid Highway Act of 1916.</p>
<p>YES</p> <p>Five-eighths of 1 cent per gallon tax allocated to cities on basis of population; 3/8 for construction of streets included in system of major streets; 2/8 for maintenance of system of major streets and of secondary street system.</p>	<p>No</p> <p>Unless under act of 1945 authorizing agreements between State and any city for acquisition of property for, construction, improvement, and maintenance of any highway including those not on State highway system to be constructed with Federal aid.</p>	<p>YES</p> <p>But the State shall delegate such functions to city if satisfied that city is equipped to conduct work efficiently.</p>	<p>YES</p> <p>But the State shall delegate such functions to city if satisfied that city is equipped to conduct work efficiently.</p>	<p>Freeways are identified with State highways.</p> <p>State is authorized to enter into agreements with any city council concerning the closing of any city street at or near the point of its intersection with any freeway or to make provision for carrying such city street over or under or to a connection with the freeway. The State may do any work on such city street as is necessary.</p>	<p>State highways are designated by constitution or legislature.</p> <p>Act of 1945 provides for cooperation with Federal Government to obtain benefits of Federal-aid Highway Act of 1944.</p>
<p>No</p> <p>But State allocates portion of motor-fuel-tax funds to cities and incorporated towns through counties, on basis of number of motor-vehicle licenses issued, for work on public highways and streets within corporate limits.</p>	<p>No</p>	<p>No</p>	<p>No</p>	<p>Freeways are identified with State highways.</p> <p>State highway engineer, with approval of governor, is authorized to enter into agreements with cities or towns having jurisdiction over city or town streets concerning the closing of any city street at or near point of its intersection with the freeway or to make provisions for carrying such city street over or under or to a connection with the freeway and shall do any and all work on such city street as is necessary therefor. Authority extends to establishment of local service roads in connection with freeways.</p>	<p>1945 act authorizes funds for cooperation with Federal Government to obtain benefits of Federal-aid Act of 1944.</p> <p>State highways may be designated into or through cities when such highways form necessary or convenient connecting links for carrying State highways into or through such cities.</p>
<p>YES</p> <p>In connection with State-aid highways on mileage basis. State allocates \$5 million per year to towns for improvement or maintenance of local roads or streets and \$1 million for improvement of local dirt and unimproved roads on mileage basis.</p>	<p>YES</p> <p>In connection with State-aid highways.</p>	<p>YES</p> <p>In connection with State-aid highways.</p>	<p>YES</p> <p>In connection with State-aid highways.</p>	<p>Parkways and freeways are identified with State trunk line system.</p> <p>State is authorized to lay out and construct service highways to provide access from areas adjacent to parkway or freeway.</p>	<p>Trunk line system is established by law but State Highway Commissioner may relocate any section for safety purposes.</p> <p>Provision is made for cooperation with Federal Government to obtain benefits of Federal-aid Highway Act of 1916.</p>

Table 3.—Statutory authority of State highway departments

State	State authority for urban extensions of State primary highways			
	Financing	Acquisition of right-of-way in name of State	Construction	Maintenance
DELAWARE.....	YES Construction and maintenance shall be at sole expense of State unless governing body of incorporated town agrees to other terms.	YES By implication since State may acquire land for State highways, which extend through cities.	YES And State has exclusive control over roads so built, except that State may not change width of highway in incorporated town except with consent of town.	YES State has sole control over maintenance. Urban extensions of State highways shall not be undermined, broken, opened, or torn for any purpose except by written permit of State.
FLORIDA.....	YES It being expressly declared by the legislature that city and town streets and roads, viaducts, and bridges that constitute connections between or extensions of State roads as municipal connecting links serve a State purpose and are for general benefit of State; that it is a legitimate State function to provide cost of maintenance, repair, construction, and reconstruction.	YES By implication since State may acquire land for State highways and certain streets may be designated as municipal connecting links of State highway system.	YES The State shall construct or reconstruct municipal links to conform to type of construction used on State roads. State is not obliged to remove or re-lay any underground sanitary sewers or gas or water mains or other public utility.	YES State is authorized and directed to maintain and repair designated municipal connecting links. State is authorized to enter into any contract with cities and towns and Federal Government for such purposes. State not required to sweep, sprinkle, or light municipal connecting link roads. Permit for public utility installations must be obtained from State with concurrence of affected city or town.
GEORGIA.....	YES With respect to streets or portions thereof forming continuations of or links in State-aid system of roads.	YES With respect to streets or portions thereof forming continuations of or links in State-aid system of roads.	YES With respect to streets or portions thereof forming continuations of or links in State-aid system of roads. State construction shall comply with all reasonable municipal ordinances not in conflict with specifications, rules, and regulations of State Highway Commission which acts as advisory board to State Highway Director.	YES With respect to streets or portions thereof forming continuations of or links in State-aid system of roads. State maintenance shall comply with all reasonable municipal ordinances not in conflict with specifications of State. This shall not be construed as relieving the several municipalities of maintaining their streets in a reasonably safe condition.
IDAHO.....	YES And apportionment of cost of joint improvement or construction as between State and counties, highway or good roads districts, cities, or villages shall be fixed by agreement.	YES Right-of-way for any State highway to be constructed by cooperation of State with any city or village may be procured by State, county, highway district, city, or village, jointly or severally.	YES State has exclusive jurisdiction, supervision, and control over location, maintenance, repair, and reconstruction of street within corporate limits of city, village, county, or highway district, designated as part of a State highway. State authorized to enter into agreements with counties, highway or good road districts, cities, and incorporated villages for improvement of existing State highways.	NO Unless population is under 2,500 or if such road is part of a city or incorporated village having population of more than 2,500 and less than 6,000, State may enter into maintenance agreement with such city or incorporated village. Apportionment of cost in such case is not to exceed 50 percent to be paid by State. In cities of 6,000 population or more, maintenance shall be wholly at expense of city.
ILLINOIS.....	YES But only to type and width required to care for traffic and parking needs.	YES If designated by Department of Public Works as street or thoroughfare to form part of or connect with State highway system leading up to corporate limit of city.	YES But only to type and width required to care for traffic and parking needs.	YES But only to type and width required to care for traffic and parking needs.
INDIANA.....	YES Shall maintain and, to extent funds are available, may construct and improve roadway of streets or any part thereof, to such width as may be determined by State in all incorporated cities and towns over which highways in State highway system are routed.	YES But may allow or require cities or towns affected to procure at own expense.	YES May construct and improve streets or any part thereof to such width as may be determined by State in all incorporated cities and towns over which highways in State highway system are routed.	YES Shall maintain streets over which State highways are routed, including curbs and gutters, catch basins, and inlets. May regulate and control parking on streets.

State authority for urban highways other than extensions of State primary system				State authority for urban controlled-access highways	Supplementary comments
Financing	Acquisition of right-of-way in name of State	Construction	Maintenance		
No Except with respect to roads leading from any public road to any institution owned or controlled in whole or in part by State.	No Except with respect to roads leading from any public road to any institution owned or controlled in whole or in part by State.	No Except with respect to roads leading from any public road to any institution owned or controlled in whole or in part by State.	No Except with respect to roads leading from any public road to any institution owned or controlled in whole or in part by State.		State Highway Department designates State highway system.
No	No	No	No	Limited-access highways are identified with State highways. State highway authorities may establish limited-access facilities and local service roads wherever they are of opinion that traffic conditions warrant, subject to municipal consent within incorporated cities and towns, and are authorized to enter into agreement with cities, towns, or villages respecting financing, planning, establishment, improvement, maintenance, use, regulation, or vacation of such facilities.	Legislature designates State highway system but road department may determine and fix lines and locations between cities. State road department designates municipal connecting link roads. A 1945 act provides for cooperation with Federal Government to obtain benefits of Federal-aid Highway Act of 1944.
YES State has authority to cooperate with Federal Government, counties, and municipalities in planning, supervising, locating, improving, and constructing roads and streets.	No	YES State has authority to cooperate with Federal Government, counties, and municipalities in planning, supervising, locating, improving, and constructing roads and streets.	YES State has authority to cooperate with Federal Government, counties, and municipalities in planning, supervising, locating, improving, and constructing roads and streets.		State Highway Board designates State highways, including streets, as constituting part of State-aid system, with proper notice thereof to local chief executive.
No But State may cooperate with Federal Government, counties, highway districts, and municipalities for construction, improvement, and maintenance of secondary or feeder roads not on State highway system.	No	No But State may cooperate with Federal Government, counties, highway districts, and municipalities for construction, improvement, and maintenance of secondary or feeder roads not on State highway system.	No But State may cooperate with Federal Government, counties, highway districts, and municipalities for construction, improvement, and maintenance of secondary or feeder roads not on State highway system.		Department of Public Works designates State highways, including highways within limits of incorporated cities and villages. A 1945 act provides for cooperation with the United States under any act of Congress. City streets are specifically included.
YES State allocates part of motor-fuel-tax fund to cities for construction and maintenance of system of arterial highways, and other improved streets other than State highways, subject to consent of State, and apportioned in accordance with population as determined by last census.	No	No But work done with funds allocated from motor-fuel-tax fund is subject to approval of State.	No	Department of Public Works is authorized to designate and establish any existing or proposed highway under its jurisdiction as a freeway; has same authority to limit access, acquire land, and establish local service roads as for State highways; may by agreement with city or village provide for elimination of highway crossings at grade.	State highway system designated by legislature but Department of Public Works may relocate urban extensions to better serve traffic demands. Provision is made for cooperation with Federal Government to obtain benefits of Federal-aid Highway Act of 1916 and subsequent amendments enacted by Congress. State highways include: (1) State-aid roads, (2) State bond issue roads, (3) Federal-aid roads, (4) Highways constructed by State in cities, villages, and towns on routes designated as 1 to 46 of State bond issue act of 1917, (5) State highway extensions in cities, towns, and villages, (6) Streets in cities of 7,500 inhabitants or less where State made refunds to cities for construction, (7) Belt line routes through or around cities to connect State highways, (8) All highways subsequently added to and included within such system.
YES State allocates part of motor-vehicle and motor-fuel-tax funds to cities and towns for construction and maintenance of streets and alleys on basis of population. State may match funds apportioned by Congress for construction of secondary or feeder roads through municipalities with consent of municipality and county.	No	No But may construct secondary or feeder roads through municipalities with matched Federal funds subject to consent of municipality and county.	No But municipality or county is authorized to enter into agreement with State for maintenance of secondary or feeder roads through municipality, if improved with Federal and State funds.	State highway authorities acting alone or in cooperation with local agencies are authorized to participate in establishment of limited-access facilities and local service roads, provided that within cities and towns such authority shall be subject to such municipal consent as may be provided by law. State may enter into agreements with cities and towns respecting financing, planning, establishing, improvement, maintenance, use, regulation, or vacation of limited-access facilities under their jurisdiction.	State Highway Commission may add routes to primary system subject to approval of governor. Provision is made for cooperation with Federal Government to secure benefits of present and future Federal allotments.

Table 3.—Statutory authority of State highway departments

State	State authority for urban extensions of State primary highways			
	Financing	Acquisition of right-of-way in name of State	Construction	Maintenance
IOWA	<p>YES</p> <p>Provided not more than 25 percent of primary road fund is used for this purpose in one year.</p>	<p>YES</p> <p>May purchase or condemn necessary right-of-way for extension of primary roads within cities.</p>	<p>YES</p> <p>Subject to approval of council, may construct extensions of primary road system within any city or town, including cities under special charter, but width shall not exceed that of primary road system.</p>	<p>YES</p> <p>Subject to approval of council, may maintain extension of primary road system within any city or town including cities under special charter.</p> <p>Cities over 2,500 may elect to maintain extensions in which case State pays \$350 per year per mile.</p>
KANSAS	<p>YES</p> <p>On connecting links of State highway system to same width and comparable type as that of State highway approaching city. State allocates \$250 per mile per year from highway fund for maintenance of connecting links of State highway system through cities.</p>	<p>No</p> <p>But State may contribute to cost of acquisition in cities of third class.</p>	<p>YES</p> <p>May assist cities in construction and reconstruction of such streets as are connecting links on State highway system, to width and type of highway approaching city. Type of construction to be determined by agreement between city and State.</p>	<p>No</p> <p>But in cities of first and second classes, State is required to pay city \$250 per mile per year for maintenance of connections on State highway system; may maintain in cities of third class or pay city \$250 per mile therefor.</p>
KENTUCKY	<p>YES</p> <p>On connecting links of State or Federal-aid highways or such city streets as State determines to be feeder roads necessary to produce adequate system of highways.</p>	<p>No</p> <p>City must deed right-of-way it owns to State. State may participate in new or additional right-of-way.</p>	<p>YES</p> <p>When such streets have been designated by the State as connecting links of State primary roads or feeder streets necessary to produce adequate system of highways. Type to be as high as that outside city. Plans and specifications subject to approval of city authorities and city must establish grade in conformity therewith.</p>	<p>YES</p> <p>On connecting links of Federal-aid or State highways, or on city streets or portions thereof over which such highways are routed, or on feeder streets necessary to produce adequate system of highways, but State need not sweep, sprinkle, light, or police same.</p>
LOUISIANA	<p>YES</p> <p>On streets and roads in cities, towns, and villages, which connect two State highways or form continuations of any State highway, State has full authority to finance. Maintenance may be limited to 50 percent participation if population is 10,000 or over.</p>	<p>YES</p> <p>State has full authority to acquire right-of-way for streets and roads in cities, towns, and villages, which connect two State highways or form continuations of any State highway.</p>	<p>YES</p> <p>State has full authority to construct streets and roads in cities, towns, and villages, which connect two State highways or form continuations of any State highway.</p>	<p>YES</p> <p>State has full authority to maintain streets and roads in cities, towns, and villages, which connect two State highways or form continuations of any State highway.</p>
MAINE	<p>YES</p> <p>Expense of constructing State highways shall be borne wholly by State, except as otherwise provided. No funds for construction derived from any bond issue to be expended on highways within compact portions of towns of over 5,000 population.</p>	<p>YES</p> <p>By implication since State may purchase, take over, and hold for public use such land as may be necessary for State highways, which extend through built-up or compact portions of towns.</p>	<p>YES</p> <p>By implication since State is authorized to construct and maintain State highways, which extend through built-up or compact portions of towns.</p>	<p>No</p> <p>Except in cities under 5,000 population and in cities over 5,000 population where houses are more than 200 feet apart for distance of ¼ mile; if city fails to maintain, State may perform work and collect from town.</p>
MARYLAND	<p>YES</p> <p>By implication since State highways are presumed to continue through cities. Specific authority exists to finance State highways extending through Baltimore.</p>	<p>YES</p> <p>By implication since State has such authority for State highways, which are presumed to continue through cities.</p>	<p>YES</p> <p>But streets or highways in incorporated cities must be in conformity with street grades approved by municipal authorities.</p>	<p>YES</p> <p>With respect to all State roads constructed by State or brought under its control, but roads improved by State in Baltimore become city streets.</p>

State authority for urban highways other than extensions of State primary system				State authority for urban controlled-access highways	Supplementary comments
Financing	Acquisition of right-of-way in name of State	Construction	Maintenance		
<p>YES If Federal funds are allocated for improvement of streets and highways with provision that work shall be under supervision of State. State funds may also be used on continuations of farm-to-market system on roads or streets in any town and in cities under 2,500 population or where houses average not less than 200 feet apart. State also allocates ½ of 1 cent tax for construction, reconstruction, repair, and maintenance of roads and streets in incorporated cities and towns in proportion to population.</p>	<p>No Except for relocation, establishment, or improvement of farm-to-market roads in cities and towns under 2,500 population or where houses average not less than 200 feet apart.</p>	<p>No Unless Federal funds are allotted for improvement of streets and highways with provision that work be under supervision of State. Improvement of farm-to-market system in towns or cities under 2,500 population or where houses average not less than 200 feet apart is subject to approval of State.</p>	<p>No Except by contractual agreement with municipal authorities.</p>		<p>State highway commission may add roads to primary system to afford access to cities, towns, or State parks, to shorten direct line of travel on important routes, or to effect connections with interstate roads at State line. Provision is made for cooperation with Federal Government to secure benefits of present or future Federal allotments.</p>
<p>YES If Federal or State funds are used on streets designated by city as major traffic streets in counties having population of over 120,000 and assessed valuation of over \$150 million; also on city streets designated as work relief, public employment, or public works projects; may also expend Federal funds for road improvements in "Benefit Districts," under certain conditions.</p>	<p>No</p>	<p>No Except in so-called benefit districts, under certain conditions.</p>	<p>No</p>		<p>State highway commission may designate State highways and certain streets as connecting links of State highway system. A 1945 act provides for cooperation with Federal Government to obtain benefits of Federal-aid Highway Act of 1944.</p>
<p>YES With respect to such city streets as State determines to be feeder roads necessary to produce adequate system of highways.</p>	<p>No</p>	<p>YES With respect to such city streets as State determines to be feeder roads necessary to produce adequate system of highways. Plans subject to approval of city.</p>	<p>YES With respect to such city streets as State determines to be feeder roads necessary to produce adequate system of highways. Sweeping, sprinkling, lighting, or policing are excluded.</p>	<p>State, acting alone or in cooperation with local agencies, authorized to participate in establishment of limited-access facilities and local service roads, provided that within limits of cities and villages such authority shall be subject to such municipal consent as may be provided by law. State and highway authorities of cities, towns, and villages are authorized to enter into agreements respecting financing, planning, establishment, improvement, maintenance, use, regulation, or vacation of limited-access facilities in their respective jurisdictions.</p>	<p>Department of highways responsible for designation of State primary system of highways and connecting links in cities. Provision is made for cooperation with Federal Government to obtain benefits of any act of Congress.</p>
<p>YES State may finance spur or stub connections from State highways to official principal business district in cities, towns, or villages where no such connections exist. State allocates 1 cent of special 2-cent gasoline tax fund for construction and maintenance of roads and bridges in the parishes and streets and bridges in the city of New Orleans.</p>	<p>YES State may acquire property for spur or stub connections from State highways to official principal business districts in cities, towns, or villages where no such connections exist.</p>	<p>YES State may construct spur or stub connections from State highways to official principal business districts in cities, towns, or villages where no such connections exist.</p>	<p>YES State may maintain spur or stub connections built by State to connect State highways with official business districts in cities, towns, or villages.</p>	<p>Limited-access highways identified with State highways. State is authorized to establish limited-access facilities and local service roads, subject to such municipal consent as may be provided by law within cities and villages. State also authorized to enter into agreements with governing authorities of cities, towns, and villages respecting financing, planning, establishment, improvement, maintenance, use, regulation, or vacation of limited-access facilities in their respective jurisdictions. State may also provide for elimination of intersections at grade of limited-access facilities with existing city, town, or village street.</p>	<p>Department of highways, subject to approval of State highway board, may add routes to State highway system and may include streets and roads in cities, towns, and villages forming continuations of State highways or connecting two State highways. State may enter into any agreements with Federal Government for purpose of improving public highways.</p>
<p>YES State apportions funds to be matched by municipalities in varying proportions for improvement of State-aid roads. State appropriates money to municipalities by special resolve for road improvements. State town improvement fund apportioned to municipalities on basis of mileage of unimproved roads.</p>	<p>YES For State-aid roads.</p>	<p>YES Construction of State-aid roads is under supervision and according to specifications of State. Money appropriated to cities by special resolve to be spent under supervision of State. Town improvement funds to be spent under supervision of State.</p>	<p>YES State-aid highways to be continually maintained under direction and control of State at joint expense of State and municipality. Money appropriated to cities by special resolve to be spent under supervision of State. Roads improved with town improvement funds to be maintained by municipality.</p>	<p>Parkways and freeways identified with State highways. State highway commission, under authorization of Governor and council, may lay out and construct parkways or freeways and service roads, provide for restriction or elimination of cross traffic, and acquire land in same manner as for State highways.</p>	<p>State highway system extends through built-up or compact portions of towns. State-aid roads have been designated within compact and built-up sections of cities and towns. Third-class highways may extend through municipalities (these are to be absorbed in State-aid system). State highway commission designates State highways.</p>
<p>YES State allocates funds to counties and city of Baltimore for improvement of streets of incorporated towns, municipalities, etc. Special allocations are made to cities and towns in certain counties. State may finance "motorways" from tolls or other available funds.</p>	<p>No Except State may acquire lands for "motorways" to be financed from tolls or other available funds.</p>	<p>No Except State has special authority to construct "motorways" to be financed from tolls or other available funds.</p>	<p>YES State has special authority to maintain "motorways." State is also authorized to maintain county roads or streets of incorporated towns or municipalities in certain counties.</p>	<p>Parkways and freeways identified with State highways. State may lay out, establish, and construct any State highway as a parkway or freeway; may acquire property in same manner as for State highways; may regulate, restrict, or prohibit access from any existing or new street.</p>	<p>State Roads Commission has authority to select general system of State roads and highways. Provision is made for cooperation with Federal Government to obtain benefits under Federal-aid Highway Act of 1944.</p>

Table 3.—Statutory authority of State highway departments

State	State authority for urban extensions of State primary highways			
	Financing	Acquisition of right-of-way in name of State	Construction	Maintenance
MASSACHUSETTS.....	YES All State highways are constructed by State wherever located.	YES May take land for State highways or connecting ways.	YES State has authority to construct State highways wherever convenient or necessary.	YES State may maintain all State highways or contract with town to do work.
MICHIGAN.....	YES On urban extensions of trunk line highways or connecting routes if requested by legislative body, 100 percent if population under 20,000 to 50 percent if population over 50,000; also 50 percent of cost of additional width over that outside city limits.	YES On all trunk highways and connecting links subject to municipal consent.	YES Or may contract with cities or villages to do work.	YES Or may contract with cities or villages to do work.
MINNESOTA.....	YES To normal width of highway outside city.	YES By implication since State is authorized to acquire by purchase, gift, or condemnation all necessary right-of-way for laying out and constructing trunk highway system, which extends through cities.	YES To width outside city, but plans and specifications must be approved by municipal authorities. Cities may perform work under agreement with State.	YES To width outside city, but city may do work under agreement with State.
MISSISSIPPI.....	No Except in towns of less than 2,500 inhabitants or where houses average more than 200 feet apart "for a mile or fraction thereof."	No Except in towns of less than 2,500 population or where houses average more than 200 feet apart "for a mile or fraction thereof," wherein State may acquire right-of-way of such width as it may determine to be necessary.	No Except in towns of less than 2,500 population or where houses average more than 200 feet apart "for a mile or fraction thereof." State may construct to width of State highway outside town.	YES Whenever streets of municipality are used by State as part of its primary road system.
MISSOURI..... (Based largely on the 1945 State constitution.)	YES Any highway in any city or town found necessary as continuation of any State or Federal highway or any connection therewith into and through city or town.	No	YES On continuations of State highways or connections therewith into and through cities and towns without limitations concerning width or type.	YES But may enter into contracts with cities, counties, or other political subdivisions to do work.
MONTANA.....	No Unless Federal funds are involved.	No	No Unless Federal funds are involved.	No Unless Federal funds are involved.
NEBRASKA.....	YES By implication since State is responsible for improvement and maintenance of State highway system, which apparently runs through cities. May finance 100-percent of maintenance costs only in cities under 2,500 population and 50-percent in cities between 2,500 and 25,000 population, to 24-foot width.	YES By implication since State may acquire land for State highways, which apparently extend through cities.	YES By implication since State is responsible for improvement of State highway system, which apparently extends through cities.	YES State is required to maintain city streets in municipalities under 2,500 population. In municipalities having population of more than 2,500 and less than 25,000, State must maintain to extent of one-half cost and not to exceed 24-foot width.

State authority for urban highways other than extensions of State primary system				State authority for urban controlled-access highways	Supplementary comments
Financing	Acquisition of right-of-way in name of State	Construction	Maintenance		
<p>YES State may match Federal funds for improvement of highways in cities or towns subject to consent of mayor or selectmen. State may allocate funds for expenditure under its direction for maintaining, repairing, improving, and constructing town and county highways. "Town" includes city. State may also allocate funds for expenditure under direction of Metropolitan District Commission for maintenance of boulevards in Boston Metropolitan Parks District and for State's share of cost of construction of boulevards within said District.</p>	<p>NO Except State may obtain right-of-way for improvements in cities with Federal funds in the name of city or town where land lies.</p>	<p>YES State may construct town and county highways including city streets, particular ways for which funds are appropriated, and highways in towns with valuation under \$5 million, or if Federal funds are available, subject to consent of mayor or selectmen.</p>	<p>NO Except if counties or towns fail to do so, State may maintain and charge costs to local units.</p>	<p>State has same authority with regard to limited-access facilities as for State highways.</p>	<p>There is no legally designated State highway system. Department of Public Works lays out State highways in any location where it determines that public convenience and necessity require.</p>
<p>NO Except portion of highway fund allocated to cities and villages (through counties) for improvement and maintenance of roads and streets.</p>	<p>NO</p>	<p>NO</p>	<p>NO</p>	<p>State alone or in cooperation with cities and towns authorized to establish limited-access facilities, subject to municipal consent within cities and villages. State may provide for elimination of intersections with city and village streets by grade separation, access, or service road, or by closing off such streets at boundary line of limited-access highway but only with consent of city or village.</p>	<p>State Highway Commissioner may change, alter, or abandon location of any portion of any trunk highway, but must hear objections of county and city. State has been given authority from time to time to add additional mileage. Provision is made for cooperation with Federal Government in carrying out provisions of Federal-aid Act of 1916 and amendments thereto.</p>
<p>YES State-aid funds may be used for improvement of roads and streets in villages, boroughs, or cities if designated by county as State-aid roads.</p>	<p>NO</p>	<p>NO Except construction on streets over which trunk highways are routed, but which are not included in trunk highway system; must conform to State specifications as to grade and drainage.</p>	<p>NO</p>		<p>State highway system set up in constitution, and legislature designates additional routes. State Highway Commissioner may locate routes added by legislature. Provision is made for cooperation with Federal Government in carrying out laws of United States and any rules and regulations made for expenditure of Federal funds.</p>
<p>NO</p>	<p>NO</p>	<p>NO</p>	<p>NO</p>		<p>Legislature designates State highways but State Highway Commission may locate, relocate, widen, alter, change, etc.</p>
<p>NO Except when necessary to comply with any Federal law or requirement.</p>	<p>NO</p>	<p>NO Except when necessary to comply with any Federal law or requirement.</p>	<p>NO Except when necessary to comply with any Federal law or requirement.</p>	<p>The State Highway Commission has authority to limit access to, from, and across State highways.</p>	<p>State Highway Commission may make minor relocations of State highways provided they do not deviate from designated points established by legislature. Provision is made for cooperation with Federal Government to secure Federal funds.</p>
<p>NO But portion of motor-vehicle-registration fund is allocated to cities in specified population groups (through counties) for construction of permanent streets within incorporated limits.</p>	<p>NO</p>	<p>NO But may assist municipalities in construction of roads to and from municipal airports.</p>	<p>NO Except in connection with roads to municipal airports.</p>		<p>State Highway Commission in conjunction with Board of County Commissioners designates State highways. In practice State highways through municipalities are constructed by the State Highway Department when Federal funds are involved but maintenance is by municipalities. A 1921 law provides for cooperation with Federal Government to obtain benefits of Federal-aid Act of 1916 and all other acts granting aid for public highways.</p>
<p>YES If Federal funds are involved. Part of motor-fuel-tax fund is allocated to incorporated places (through counties) for street improvement on basis of population. State also allocates funds for maintenance of city streets.</p>	<p>NO Unless Federal funds are involved.</p>	<p>NO Unless Federal funds are involved.</p>	<p>NO Unless Federal funds are involved.</p>		<p>State highway system is designated by legislative determination. Apparently State highways are designated through all cities with population under 25,000.</p>

Table 3.—Statutory authority of State highway departments

State	State authority for urban extensions of State primary highways			
	Financing	Acquisition of right-of-way in name of State	Construction	Maintenance
NEVADA.....	<p>YES</p> <p>By implication since State may finance improvements of State highways, which extend through municipalities.</p>	<p>YES</p> <p>By implication since State may acquire right-of-way for State highways, which extend through municipalities.</p>	<p>YES</p> <p>By implication since State is responsible for construction of State highways, which extend through municipalities.</p>	<p>YES</p> <p>By implication since State is responsible for maintenance of State highways, which extend through municipalities.</p>
NEW HAMPSHIRE.....	<p>NO</p> <p>Except in cities and towns under 2,500 population.</p>	<p>NO</p> <p>Damages for land taken for a highway are paid by town in which that part of highway is located.</p>	<p>NO</p> <p>Except in cities and towns under 2,500 population.</p>	<p>NO</p> <p>Except in cities and towns under 2,500 population.</p>
NEW JERSEY.....	<p>YES</p> <p>Or local bodies may assume portion of costs.</p>	<p>YES</p> <p>And may acquire land outside uniform width of highway to conform to comprehensive plan of municipalities.</p>	<p>YES</p> <p>Or may contract with municipalities to do work to conform to standards on State highway system. In cities over 75,000 population, city retains rights as to construction of utilities.</p>	<p>YES</p> <p>But in cities over 75,000 population city retains rights as to regulation of use of utilities.</p>
NEW MEXICO.....	<p>YES</p> <p>By implication since State may initiate and finance improvements on State highways, which are presumed to extend through cities.</p>	<p>YES</p> <p>By implication since State may acquire right-of-way for State highways, which are presumed to extend through cities.</p>	<p>YES</p> <p>By implication since State may initiate projects on State highway system considered necessary, if county fails to do so, and State highways are presumed to extend through municipalities.</p>	<p>YES</p> <p>By implication since State may maintain State highways if sufficient funds are available, and State highways are presumed to extend through municipalities.</p>
NEW YORK.....	<p>YES</p> <p>With respect to certain arterial routes through cities, established by legislature, to width and type approved by State. State pays all construction costs and 50 percent of right-of-way costs.</p>	<p>YES</p> <p>With respect to certain arterial routes through cities (not including New York City).</p>	<p>YES</p> <p>With respect to certain arterial routes through cities, to width and type approved by State. Approval of city is necessary if land is to be acquired. Individual projects are authorized by legislature.</p>	<p>YES</p> <p>With respect to certain arterial routes through cities.</p>
	<p>State highways through towns and incorporated villages.</p>	<p>State may acquire land but changes of 1 mile or over are subject to approval of governing body of town or village.</p>	<p>To width approved by State. Additional width to be financed by local unit.</p>	<p>Maintenance and repair of improved State highways in towns and incorporated villages is under direct supervision of State.</p>
	<p>Certain cities of second and third class adjacent to New York City.</p>	<p>To be acquired by city or county.</p>	<p>To width of highway outside city.</p>	<p>To be maintained at expense of municipality.</p>
NORTH CAROLINA.....	<p>YES</p> <p>State apportions funds to cities and towns on basis of population, mileage of State highways, and need, to be used primarily for streets forming part of State highway system.</p>	<p>YES</p> <p>By implication since State has this authority for State highways, which extend through cities.</p>	<p>YES</p> <p>Or may contract with city or town to do work, but performance must meet State specifications.</p>	<p>YES</p> <p>Or may contract with city or town to do work, but performance must meet State specifications.</p>

State authority for urban highways other than extensions of State primary system				State authority for urban controlled-access highways	Supplementary comments
Financing	Acquisition of right-of-way in name of State	Construction	Maintenance		
No	No	No	No		State Highway Department may supplement State highway system by establishing new routes into or in vicinity of municipalities and metropolitan areas with approval of county and city affected thereby. A 1945 amendment provides for cooperation with Federal Government to obtain benefits of Federal-aid Highway Act of 1944.
Yes Part of motor-fuel-tax fund is allocated to towns for work on local roads and streets. State may finance reconstruction and maintenance of secondary State highways in cities and towns under 2,500 population. Aid is on sliding scale based on assessed valuation of cities or towns.	No	Yes State has full control of reconstruction of secondary State highways in cities or towns under 2,500 population.	Yes State maintains secondary State highways in cities and towns under 2,500 population or if Federal funds involved State may maintain in cities over 2,500 population if city fails to maintain properly.	State, with approval of governor and council, may designate and establish any existing street as included within a limited-access facility; may provide for elimination of intersections at grade with any existing street by grade separation or service road or by closing off such street; may plan, designate, establish, use, regulate, alter, improve, maintain, or discontinue any street, or designate as local service streets any existing street, and exercise jurisdiction over same in manner authorized over limited-access facilities.	Governor, with advice of council, determines whether there is occasion for laying out or altering State highways. A 1945 act provides for cooperation with Federal Government to obtain benefits of Federal-aid Highway Act of 1944.
Yes State allocates portion of motor-vehicle fund to municipalities for construction of unimproved roads, on basis of population and mileage, and additional funds for special municipal projects.	No	No Except that work done by municipalities with State funds allocated for construction of unimproved roads in cities and for special projects must conform to standards prescribed by State.	No Except that municipalities accepting State allocations for construction of unimproved roads in cities must enter into agreement with State to keep roads in repair.	Freeways and parkways identified with State highways.	State highway system designated by legislature but commissioner of highways may add routes. Annual appropriation bill covers acceptance of any Federal funds available and authorizes State to carry out such projects as may be designated by the Federal Government.
No	No	No	No	State, alone or in cooperation with City of Santa Fe, may establish limited-access facilities and local service roads on U S Highways 85 and 64 and adjacent or connecting streets in and near Santa Fe subject to municipal consent within city limits. State may acquire right-of-way for highways or streets under its jurisdiction; may provide for elimination of intersections at grade between limited-access facilities and city streets and may determine what city streets may open into or connect with limited-access facility, subject to municipal consent in Santa Fe. State and city of Santa Fe may enter into agreement respecting financing, planning, establishment, improvement, maintenance, use, administration, or vacation of limited-access facility.	State highway engineer, under direction of State Highway Commission, selects and designates State highway system and may change from time to time subject to approval of State Highway Commission. According to law, "the balance of the moneys in the State road fund shall be used as the Commission shall determine for cooperating with the U. S. Government or with the several counties or municipalities of the State, or otherwise, in the discretion of the Commission for the construction, improvement, or maintenance of public highways and bridges."
Yes State allocates part of motor-vehicle fund to villages and to New York City. 40 cent from motor-fuel tax allocated to New York City without restrictions as to use.	No	Yes State may construct highways in villages to connect State highways with existing paved streets or highways, to width and type approved by State, upon petition of board of trustees of village. Upon request of municipality State may perform any work of construction or reconstruction in connection with performance of other improvements.	No	Thruways identified with State highways. State may establish and maintain arterial highways authorized by legislature through cities as part of State highway system. In New York City, State may construct arterial highways subject to city's approval of plans, etc., to be turned over to city after construction. Changes in basic plans involving abandoning or relocating sections, adding entrances or exits, or providing crossings at grade or traffic lights, other than on service roads, are subject to approval of State Superintendent of Public Works.	State highway routes designated by legislature.
Yes Any balance of funds apportioned to cities and towns for improvement of State highways may be used for (first) important connecting links to State or county highway systems or farm-to-market roads and (second) for such streets as may be designated by municipality.	No Not unless by implication for urban extensions of county highways, since State has this authority for county highways.	Yes State may construct important connecting links to State or county highway system or farm-to-market roads, or streets designated by municipality, if funds are available, or may contract with municipality to do work, which must meet State specifications.	Yes State may maintain important connecting links to State or county highway system or farm-to-market roads, or streets designated by municipality, if funds are available or may contract with municipality to do work, which must meet State specifications.		State Highway Commission may change, alter, add to, or discontinue roads included in State highway system. Provision is made for cooperation with Federal Government to secure benefits of Federal-aid act.

Table 3.—Statutory authority of State highway departments

State	State authority for urban extensions of State primary highways			
	Financing	Acquisition of right-of-way in name of State	Construction	Maintenance
NORTH DAKOTA.....	<p>YES</p> <p>By implication since State is authorized to improve and maintain any part of State highway system, which extends through cities.</p>	<p>YES</p> <p>By implication since State may acquire land for State highways, which extend through cities.</p>	<p>YES</p> <p>To normal width of State highway. City may request additional width and pay difference.</p>	<p>YES</p> <p>To normal width of State highway. City may contract with State to maintain additional width.</p>
OHIO.....	<p>YES</p> <p>State allocates part of highway construction fund for urban extensions of State highways according to specified proportions.</p>	<p>YES</p> <p>By implication since State may acquire right-of-way for carrying out provisions of highway law.</p>	<p>YES</p> <p>Subject to approval of governing body of municipality, may construct, reconstruct, widen, and improve; may make improvements without municipal consent on State highways which are part of Federal-aid system if municipality refuses to cooperate.</p>	<p>YES</p> <p>Subject to approval of governing body of municipality.</p>
OKLAHOMA.....	<p>YES</p> <p>State has authority to construct and maintain extensions of State highways within incorporated limits of any city.</p>	<p>YES</p> <p>By implication since State may acquire land for State highways, which extend through cities.</p>	<p>YES</p> <p>State has authority to construct extensions of State highways within incorporated limits of any city.</p>	<p>YES</p> <p>State highways in cities to be maintained in same manner as other State highways.</p>
OREGON.....	<p>YES</p> <p>May construct and maintain streets through incorporated cities where such streets form links in State highway system or connection between two such highways and which streets have been designated by State as streets over which State highway traffic is routed.</p>	<p>YES</p> <p>May acquire right-of-way necessary for State highways within incorporated limits of city at sole expense of State.</p>	<p>YES</p> <p>May construct streets forming links in State highway system in incorporated cities but may not change grade without consent of governing body of city.</p>	<p>YES</p> <p>Has complete control over streets taken over from curb to curb or, if no established curb, over such portion of right-of-way as may be utilized for highway purposes.</p>
PENNSYLVANIA.....	<p>YES</p> <p>With respect to streets in first-class cities taken over as State highways (city may pay part).</p> <p>All State highways within boroughs and incorporated towns.</p> <p>Designated streets in cities of second, second A, and third class which are part of State system (city may pay part).</p> <p>Existing roads and streets in cities, boroughs, and townships approximately parallel to State highways which shall become part of State highway system.</p> <p>Connecting roads (not over 1 mile in length) joining two or more State highways, in second, second A, and third-class cities, boroughs, incorporated towns, or townships, to lessen distance or improve alignment.</p> <p>May establish, construct, and maintain as State highways roads or streets parallel to existing State highways in townships, boroughs, incorporated towns, or cities.</p> <p>May pay all or part of cost of improving streets and highways in cities of second, second A, and third class which are not State highways but continuations thereof (under agreement with city).</p>	<p>YES</p> <p>State pays for right-of-way, city acts as agent. (City may pay part of cost).</p> <p>County acquires right-of-way if agreeable to proposed improvement; otherwise State may do so.</p> <p>County acquires right-of-way if agreeable; otherwise State may do so.</p> <p>County acquires right-of-way if agreeable; otherwise State may do so.</p> <p>County acquires right-of-way if agreeable; otherwise State may do so.</p> <p>County acquires right-of-way if agreeable; otherwise State may do so.</p> <p>Presumably either State or city may acquire, depending on terms of agreement.</p>	<p>YES</p> <p>Shall construct, reconstruct, resurface, and repair.</p> <p>Shall improve or reconstruct to width and type determined by State. May change, alter, or establish width, grades, or line.</p> <p>Shall construct, reconstruct, resurface to width between curbs. Changes in width, lines, or grades subject to approval of city.</p> <p>But in cities and boroughs approval of council is required for relocation, change in line or width, or for constructing wholly or in part on new alignment.</p> <p>May take over or build.</p> <p>May establish and construct.</p> <p>Under agreement with local unit, may construct or reconstruct to existing or lesser width; city may pay for greater width if desired.</p>	<p>YES</p> <p>But is under no obligation to maintain curb or footways, remove snow, or clean streets.</p> <p>Shall maintain to width and type determined by State.</p> <p>To width between curbs. Maintenance does not include snow removal or street cleaning.</p> <p>Maintained as State highways.</p> <p>Maintained as State highways.</p> <p>May maintain.</p> <p>May maintain under agreement with local unit.</p>

State authority for urban highways other than extensions of State primary system				State authority for urban controlled-access highways	Supplementary comments
Financing	Acquisition of right-of-way in name of State	Construction	Maintenance		
<p>YES State aid for counties (1 cent of motor-fuel tax) is to be used for "city streets leading up to and connecting with Federal-aid and State highways." Cities may also request State assistance in improving city streets by formation of improvement districts.</p>	No	<p>No Except that improvement districts may request State assistance in improving city streets.</p>	No		<p>State Highway Department has full power and authority to designate, locate, and create new and additional routes of State highway system. Provision is made for cooperation with Federal Government in order to obtain benefits of Federal-aid Highway Act of 1916 or any future acts.</p>
<p>YES State allocates funds from highway construction fund to municipalities for construction and maintenance of city streets, street cleaning, and traffic lights.</p>	No	No	No	<p>State Director of Highways has similar powers with respect to establishment and maintenance of limited-access highways and freeways as he possesses relative to other highways.</p>	<p>State Highway Department has authority to designate additional State highways or change existing State highways after public hearing. Provision is made for cooperation with Federal Government to secure benefits of Federal-aid Acts of 1916 and 1935 and acts amendatory thereto.</p>
<p>YES State allocates portion of motor-vehicle fund to counties for allocation to cities and incorporated towns, for construction, maintenance, repair, and improvement of streets and alleys. State also allocates 5 percent of motor-fuel-tax fund to incorporated cities and towns for construction and maintenance of streets and alleys (on basis of population).</p>	No	No	No	<p>Governing body of city over 5,000 population authorized to enter into agreement with State respecting financing, planning, establishment, improvement, maintenance, or vacation of limited-access facilities.</p>	<p>State highway system designated by State Highway Commission.</p>
<p>YES If Federal funds are available. State is authorized to construct, maintain, etc., streets forming links in secondary State highway system. State may enter into agreement with cities for construction and maintenance of streets on terms mutually agreed upon. State also allocates funds to cities for construction and maintenance of city streets which have not been designated as connecting links of State highway system (cities under 1,000 population must submit plans to State). Allocation is made on basis of population. \$250,000 of this fund to be administered by State for improvement of streets not on State highway system which are receiving excessive wear.</p>	<p>YES State may acquire land for extensions of secondary State highways within corporate limits of cities and towns also for improvement districts.</p>	<p>YES If Federal funds are available. State may also construct streets on urban extensions of secondary State highway system, or streets receiving excessive wear through sudden increases in population or heavy-industry traffic.</p>	<p>YES If Federal funds are available. State may maintain urban extensions of State secondary highway system. State may enter into agreement with cities for maintenance of streets.</p>	<p>State's authority to construct throughways includes State highways within corporate limits of cities and towns and with approval of municipal authorities may extend to and include city streets. Access points to throughways to be designated by municipal authorities, but upon failure of such authorities to do so, within a given length of time, State may designate such points. Authority of State to provide service roads subject to municipal consent. State may enter into cooperative agreement with city for location, adoption, construction, and maintenance of throughway, both with respect to State highways and to streets under jurisdiction of incorporated cities and towns.</p>	<p>State Highway Commission authorized to select and designate streets over which State highways shall be routed, and may alter or change such routes when deemed advisable. "State highways" include secondary routes. Provision is made for cooperation with Federal Government to obtain benefits of Federal-aid Highway Act of 1916 and other acts "heretofore or hereafter enacted."</p>
<p>No Except if Federal funds are involved. State also allocates portion of motor-license fund to cities of first class, second class, second class A, and third class, boroughs, and incorporated towns and townships of the first class, according to designated proportions. State also allocates part of liquid-fuels-tax fund to counties for county aid for city streets according to designated proportions.</p>	No	<p>No Except if Federal funds are involved in which case State may relocate, widen, or construct as for State highways.</p>	<p>No Except presumably if Federal funds are involved.</p>	<p>Secretary of Highways, with approval of governor, may declare any existing or hereafter established State highway to be a limited-access facility. Designation of such a highway in a city is subject to approval of city. Secretary of Highways may lay out and construct local service roads subject to approval of local authorities; may enter into agreements for sharing of cost of property damages with officials of any public subdivision of the Commonwealth. Political subdivisions of Commonwealth may make contribution to department of highways toward cost of establishment or improvement of limited-access highway or local service highway by the department of highways or toward cost of maintenance by department of highways.</p>	<p>Secretary of Highways, with approval of governor, may designate future location and width of any proposed State highway. Provision is made for cooperation with Federal Government to obtain benefits of Federal-aid Act of 1916 and its supplements and amendments, or any other act of Congress providing Federal aid for any highway purposes.</p>

Table 3.—Statutory authority of State highway departments

State	State authority for urban extensions of State primary highways			
	Financing	Acquisition of right-of-way in name of State	Construction	Maintenance
RHODE ISLAND.....	<p>YES</p> <p>May construct, reconstruct, improve, and maintain as part of State highway system any street, road, avenue, or right-of-way in city which is extension or connection of existing State road into or through said city, subject to approval of city.</p>	<p>YES</p> <p>May condemn or purchase property for city extensions of State highways.</p>	<p>YES</p> <p>May construct, reconstruct, or improve extension or connection of existing State road into or through city, subject to approval of city.</p>	<p>YES</p> <p>State jurisdiction extends from curb to curb. State may relinquish maintenance to city.</p>
SOUTH CAROLINA.....	<p>YES</p> <p>But in cities over 2,500 population State may not spend over \$500,000 per year, including funds for matching Federal aid for this purpose, nor any funds for this purpose until Federal aid for secondary and farm-to-market roads has been matched.</p>	<p>YES</p> <p>State may condemn land necessary for right-of-way for State highways in towns or municipalities.</p>	<p>YES</p> <p>But approval of local governing body is necessary in municipalities over 2,500 population. Construction includes necessary provision for operation and parking of vehicles, sidewalks, gutters, storm drains, etc.</p>	<p>YES</p> <p>Including sidewalks, gutters, storm drains, etc.</p>
SOUTH DAKOTA.....	<p>YES</p> <p>By implication, since highway fund is apportioned to counties for expenditure on State highways, which include urban extensions.</p>	<p>YES</p> <p>By implication since State acquires and pays for land necessary for widening, changing, relocating, constructing, reconstructing, maintaining, or reopening any portion of State highway system, which extends through municipalities.</p>	<p>YES</p> <p>By implication since highway fund is apportioned to counties for improvement of State highways (by State), which extend through municipalities.</p>	<p>No</p> <p>Except in cities under 2,500 population.</p>
TENNESSEE.....	<p>YES</p> <p>State Highway Department to construct, maintain, or contribute to construction or maintenance of all streets or roads in municipalities over which traffic from State highways is routed.</p>	<p>YES</p> <p>State may enter into contract with municipalities relative to acquisition of right-of-way for streets in municipalities over which traffic from State highways is routed.</p>	<p>YES</p> <p>To width and type State may deem proper, but such width shall not be less than 18 feet.</p>	<p>YES</p> <p>But city may maintain if equipped to do so and State will reimburse.</p>
TEXAS.....	<p>YES</p> <p>May enter into agreement with governing bodies of incorporated cities, towns, and villages providing for location, relocation, construction, control, supervision, and regulation of designated State highways within or through corporate limits of municipalities, and determine respective liabilities.</p>	<p>YES</p> <p>By implication since State may acquire land for State highways, which extend through municipalities.</p>	<p>YES</p> <p>Under agreement with municipalities.</p>	<p>YES</p> <p>Under agreement with municipalities.</p>
UTAH.....	<p>YES</p> <p>All roads or streets designated as State roads by legislative action, to be constructed and maintained by State with funds made available for that purpose. State to make agreements with any city or town for rights-of-way, for improvement or maintenance of State roads at expense of State, city, or town, or joint expense.</p>	<p>YES</p> <p>State to make agreements with any city or town for rights-of-way for State roads at expense of State, city, or town, or joint expense.</p>	<p>YES</p> <p>All roads or streets designated as State roads by legislative action to be constructed by State. State to make agreements with any city or town for construction of State roads. Where public highways extend through incorporated cities or towns they must conform to direction and grade and be subject to regulations of other streets in such cities or towns.</p>	<p>YES</p> <p>All roads or streets designated as State roads by legislative action to be maintained by State. State to make agreements with any city or town for maintenance of State roads.</p>
VERMONT.....	<p>No</p> <p>Except where population is under 1,500 or houses are 100 feet or more apart. State also makes annual appropriation to towns for improvement of State-aid highways.</p>	<p>No</p> <p>Unless by implication, where population is under 1,500 or houses are 100 feet or more apart, since State has this authority for State highways, which extend through towns in this category.</p>	<p>No</p> <p>Except where population is under 1,500 or houses are 100 feet or more apart; also State may supervise expenditure of State-aid funds for "State-aid connecting links."</p>	<p>No</p> <p>Except where population is under 1,500 or houses are 100 feet or more apart; also State may supervise maintenance of "State-aid connecting links" with State-aid funds.</p>

State authority for urban highways other than extensions of State primary system				State authority for urban controlled-access highways	Supplementary comments
Financing	Acquisition of right-of-way in name of State	Construction	Maintenance		
No	No	No	No	State's authority regarding limited-access facilities same as for other highways of State. Access to freeway from existing street may be regulated and restricted by Director of Public Works and Division of Roads and Bridges. Access to freeway from new street is subject to consent and approval of said director.	State highway system and any additions designated by legislature. Provision is made for cooperation with Federal Government to obtain benefits of Federal-aid apportionments.
No Except State may use State funds for belt lines or spurs of 2 miles or less; also for streets or roads at State institutions.	No	No Except State may construct belt lines and spurs of 2 miles or less; may also hard-surface streets or roads including sidewalks at State institutions.	No Except State may maintain belt lines and spurs of 2 miles or less constructed by State.		State highway primary system to consist of connected system of principal State highways not to exceed 10,000 miles, connecting centers of population, as determined by State Highway Commission. State highway secondary system to consist of all State highways not included in State primary system. State Highway Commission may transfer route from secondary to primary system if deemed desirable to better serve the traveling public.
No	No	No	No		State Highway Commission may, at its discretion, extend State highway system to include any street or streets within limits of any city if necessary to make continuous route, but may not generally add routes to system. Provision is made for cooperation with Federal Government to obtain benefits of Federal-aid Highway Act of 1916.
No	No	No	No		State Highway Commissioner authorized to add routes to State highway system. Provision is made for cooperation with Federal Government to receive Federal funds.
YES But only if Federal funds are available, and subject to municipal consent.	No	YES But only if Federal funds are available, and subject to municipal consent.	YES But only if Federal funds are available, and subject to municipal consent.	Authority to establish freeways rests with cities and towns over 175,000 population.	State Highway Commission may add routes to State highway system. In practice State responsibility for State highways in cities extends from curb to curb. State is not responsible for congested or downtown sections in cities over 15,000 population. Cities are responsible for acquisition of land for improvements on State highway system.
No But State appropriates money to cities for "Class C" roads and furnishes standard plans and specifications.	No	No But cities of third class may contract with State for construction of "Class C" roads within corporate limits. State to cooperate with governing officials in construction of "Class C" roads.	No But cities of third class may contract with State for maintenance of "Class C" roads within corporate limits. State to cooperate with governing officials in maintenance of "Class C" roads.	The State, acting alone or in cooperation with local agencies, is authorized to participate in establishment of limited-access facilities and local service roads, provided that within cities and towns, such authority shall be subject to such municipal consent as may be provided by law. The State and cities and towns are authorized to enter into agreement with each other regarding the financing, planning, establishment, improvement, maintenance, use, regulation, or vacation of limited-access facilities.	State highway routes are designated by legislature. "Class A" roads are State highways. "Class B" roads are county highways. "Class C" roads are all others. State Road Commission authorized to enter into all contracts with Federal Government to comply with Federal acts.
YES State appropriates funds for expenditure on town highways on mileage basis.	No	YES Construction with State funds is under supervision of State highway department.	No		Legislature designates State highways but State Highway Board may add routes under certain conditions. Extensions of State highways through municipalities are State-aid highways or "State-aid connecting links."

Table 3.—Statutory authority of State highway departments

State	State authority for urban extensions of State primary highways			
	Financing	Acquisition of right-of-way in name of State	Construction	Maintenance
VIRGINIA.....	<p>YES</p> <p>State may pay 50 percent of cost of construction and improvement, including right-of-way for bypasses, extensions, or connections of State highways in cities over 3,500 population, and 100 percent for extensions of State highways in incorporated towns and cities under 3,500 population.</p> <p>State also allocates additional funds to cities and towns over 3,500 population for maintenance and improvement including construction and reconstruction of streets, roads, and bridges, on mileage basis.</p>	<p>YES</p> <p>In connection with bypasses, extensions, or connections of primary highway system through or around cities or incorporated towns.</p>	<p>YES</p> <p>In connection with bypasses, extensions, or connections of State highway system through or around cities and incorporated towns.</p> <p>Plans and specifications for construction with additional funds allocated on mileage basis are subject to approval of State in cities and towns.</p>	<p>YES</p> <p>In connection with all State highways in incorporated cities and towns under 3,500 population. Cities over 3,500 population maintain bypasses, connections, or extensions of State highway system but State contributes such sums as may be provided by law.</p>
WASHINGTON.....	<p>YES</p> <p>May spend any State funds available on city streets in incorporated cities and towns forming part of State highway system.</p> <p>State allocates portion of motor-vehicle fund to cities and towns on basis of population for improvement of primary and secondary State highways.</p>	<p>YES</p> <p>On city streets in incorporated cities and towns forming part of State highway system (State "shall" acquire right-of-way for improvement of urban extensions of primary State highways in incorporated cities and towns under 1,500 population).</p>	<p>YES</p> <p>On city streets in incorporated cities and towns forming part of State highway system (State "shall" construct extensions of State primary highways in incorporated cities and towns under 1,500 population).</p>	<p>YES</p> <p>On city streets in incorporated cities and towns forming part of State highway system (State "shall" maintain extensions of State highways in incorporated cities and towns under 1,500 population).</p> <p>City may authorize State to maintain city streets with funds from State appropriation if city is unable to do so.</p>
WEST VIRGINIA.....	<p>YES</p> <p>But assumes no greater obligation for connecting parts of State road system than it is required to assume outside municipalities.</p>	<p>YES</p> <p>By implication since State has this authority for all State roads, which extend through municipalities.</p>	<p>YES</p> <p>But shall assume no greater obligation for connecting parts of State road system than it is required to assume outside of municipalities.</p>	<p>YES</p> <p>But shall assume no greater obligation for connecting parts of State road system than it is required to assume outside of municipalities.</p>
WISCONSIN.....	<p>YES</p> <p>On State highway extensions in cities under 2,500 population and on connecting streets in cities over 2,500 population (subject to approval of counties if county allotment is used). Cities and villages receive allocation on mileage basis for maintenance and construction of streets connecting but not part of State highway system.</p>	<p>No.</p> <p>Necessary land to be acquired by board, commission, or department selected by city subject to approval of State. State is grantee.</p>	<p>YES</p> <p>On State highways in cities under 2,500 population and on connecting streets in cities over 2,500 population, subject to approval of counties if funds from county allotment are used. State shall construct in same manner as portions of State trunk highway system (compulsory only to same width).</p>	<p>No</p> <p>Except on State highways in cities under 2,500 population.</p>
WYOMING.....	<p>YES</p> <p>On streets constituting direct connections of State highways in cities under 1,500 population, State pays entire cost of construction and maintenance. In cities over 1,500 population, city pays half of construction cost and all of maintenance cost.</p>	<p>YES</p> <p>By implication since State has this authority for State highways.</p>	<p>YES</p> <p>All work to be performed under direct supervision and control of State. State may cooperate with incorporated cities, towns, and villages in construction of public streets and highways which constitute direct connections between sections of established State highways.</p>	<p>No</p> <p>Except in cities under 1,500 population.</p>

State authority for urban highways other than extensions of State primary system				State authority for urban controlled-access highways	Supplementary comments
Financing	Acquisition of right-of-way in name of State	Construction	Maintenance		
<p>YES State may finance connecting links of secondary system in incorporated towns under 3,500 population.</p>	<p>YES State may acquire land for connecting links of secondary system in incorporated cities and towns under 3,500 population.</p>	<p>YES State may construct connecting links of secondary system in incorporated cities and towns under 3,500 population.</p>	<p>YES State may maintain connecting links of secondary system in incorporated cities and towns under 3,500 population.</p>	<p>State's authority regarding limited-access highways same as for other highways.</p>	<p>Designation of State highways is by legislative enactment, but State may transfer total of 50 miles of State secondary roads to primary system per year. State Highway Commission authorized to comply with provisions of present or future Federal-aid acts.</p>
<p>YES State may expend any funds available on secondary State highways in incorporated cities and towns. State also apportions part of motor-vehicle fund for improvement of city streets (on basis of population).</p>	<p>YES State may acquire land for secondary State highways in incorporated cities and towns (State "shall" acquire land for improvement of urban extensions of secondary State highways if population is under 1,500).</p>	<p>YES State may construct secondary State highways in incorporated cities and towns (State "shall" construct urban extensions of State secondary highways if population is under 1,500). City may authorize State to construct city streets with funds from State appropriations if city is unable to do so.</p>	<p>YES State may maintain secondary State highways in incorporated cities and towns (State "shall" maintain urban extensions of State secondary highways if population is under 1,500). City may authorize State to maintain city streets with funds from State appropriation if city is not equipped to do so.</p>	<p>State's authority regarding limited-access highway facilities same as for other highways. Within incorporated cities State authority is subject to consent of local authorities.</p>	<p>State highway routes are designated by legislature but State Division of Highways designates routes through incorporated cities and towns. Secondary State highways are defined as branches of primary State highways.</p>
<p>YES State may finance connecting parts of secondary State highways to extent required outside municipalities.</p>	<p>YES State may acquire land for connecting parts of secondary State highways to extent required outside municipalities.</p>	<p>YES State may construct connecting parts of secondary State highways to extent required outside municipalities.</p>	<p>YES State may maintain connecting parts of secondary State highways to extent required outside municipalities.</p>	<p>State's authority regarding freeways is same as that for other highways. Access to any freeway from any new street shall be established by and with consent of State Road Commission.</p>	<p>State highway system designated by State Road Commission. State has control over all primary and secondary State highways (Secondary State system is former county district system). Provision is made for cooperation with Federal Government to secure benefits of Federal-aid Act of 1921 and all subsequent acts.</p>
<p>YES If Federal funds are available. State also allocates portion of State highway fund to towns, villages, and cities, on mileage and population basis, for improvement of roads and streets not on State or county systems. County appropriation may be used by Milwaukee County for improvement of city streets.</p>	<p>NO</p>	<p>YES If Federal funds are available.</p>	<p>NO Maintenance of other than State highways is responsibility of counties, cities, etc.</p>	-----	<p>State Highway Commission may revise State highway routes designated by legislature but revisions over one-half mile must be approved by county. State trunk highways extend through cities under 2,500 population. (Called connecting streets in larger cities). Provision is made for cooperation with Federal Government to secure benefits of Federal-aid acts.</p>
<p>YES If Federal funds involved. State allocates part of motor-fuel-tax fund to cities and towns for construction and maintenance of streets if population is over 1,500. Apportioned on basis of population.</p>	<p>NO</p>	<p>YES If Federal funds involved.</p>	<p>NO</p>	-----	<p>State Highway Commission authorized to designate State highways. Provision is made for cooperation with Federal Government to secure benefits of Federal-aid Act of 1916 and all acts amendatory and supplementary thereto.</p>

In only five States²² is the State highway system designated by the legislature with no provision under which the State highway department may add additional routes or alter those designated by the legislature, which apparently reserves this authority to itself. In the remaining States (with the exception of New Hampshire²³) the State highway department either has authority to designate the system itself or may add individual routes or relocate those previously designated.

In 13 States, whether the original system was designated by the legislature or by the State highway department, some authority is given to the department relative to selection or revision of urban extensions of the State primary system.²⁴ For example, the Arizona State Highway Department and the governing bodies of cities may select routes of State highways through cities. Likewise, the Georgia State Highway Department can designate State highways, including streets, "with proper notice to the governing body." The Indiana State Highway Commission has the authority to select routes of State highways through incorporated cities and may alter such routes for the convenience of traffic.

Comparable authority also exists in Louisiana, for the Department of Highways in that State may add routes to the State highway system and may include streets in cities forming continuations of or connections with State highways. The Nevada Department of Highways may establish new routes into or in the vicinity of municipalities and metropolitan areas subject to the approval of the local units involved.

The Director of Highways in Washington designates routes through incorporated cities, while the Illinois Department of Public Works and Buildings may relocate urban extensions to better serve traffic demands.

CONTROLLED-ACCESS HIGHWAYS

The last decade has witnessed the development of the controlled-access highway, particularly in the urban areas. Because many of these modern road facilities are being established by the State, it is important to know what legislative authorization exists with respect to such State expressways in municipalities.

Controlled-access highways are now sanctioned by legislative act in 26 States,²⁵ by constitutional provision in one State, Missouri, and by judicial decision in an additional State, Minnesota.

²² California, Nebraska, New York, Rhode Island, and Utah.

²³ The Governor of New Hampshire, with advice of council, determines whether there is occasion for laying out or altering State highways.

²⁴ Arizona, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Nevada, Oregon, South Dakota, and Washington.

²⁵ California, Colorado, Connecticut, Florida, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Texas, Utah, Virginia, Washington, and West Virginia.

In 18 of these States,²⁶ the statute specifically identifies controlled-access highways with State highways. Accordingly, it is presumed that generally speaking, the same authority, or qualifications on authority, of State highway departments in urban areas apply to controlled-access highways as concern all State highways, unless the contrary is specifically stated. This may also be true of the remaining States that have sanctioned the controlled-access highway, but that fact is not specifically spelled out in their statutes.

Legislation frequently authorizes agreements between the State highway department and municipalities concerning the establishment of urban expressways and the consent of the city is often required. The laws of 16 States²⁷ now contain varying provisions of this character.

The Florida statute is typical. It provides that State highway authorities may establish controlled-access facilities and local service roads wherever they are of the opinion that traffic conditions warrant, subject to municipal consent within incorporated cities and towns; and are authorized to enter into agreement with cities, towns, or villages respecting the financing, planning, establishment, improvement, maintenance, use, regulation, or vacation of such facilities.

A variation of this provision is found in a few States, of which Colorado is illustrative. Under the Colorado law, the State highway engineer, with approval of the Governor, is authorized to enter into agreements with cities or towns having jurisdiction over city or town streets, concerning the closing of any city street at or near the point of intersection with the freeway; or to make provision for carrying such city street over or under or to a connection with the freeway; and to do any and all work on such city street as is necessary therefor.

Comparable provisions in other jurisdictions may be found in table 3, pages 166-81.

A rather unique provision relating to expressways through urban areas is to be found in the State of New York. In connection with the arterial highway program, the State is authorized by law to establish and maintain arterial highways through cities as part of the State highway system. Certain qualifications on the State's authority in New York City are found in table 3.

In some States, legislative authority with respect to controlled-access highways is limited to designated cities or urban areas of a stipulated population. In New Mexico, for example, only the city of Santa Fe is authorized to participate in the expressway program with the State, and then only on two specified routes and adjacent or connecting streets. In Oklahoma, cities over 5,000 population are authorized to act, more or less independently, though cooperation with the State Department

²⁶ California, Colorado, Connecticut, Florida, Illinois, Louisiana, Maine, Maryland, Massachusetts, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Virginia, Washington, and West Virginia.

²⁷ California, Colorado, Florida, Illinois, Indiana, Kentucky, Louisiana, Michigan, New Mexico, New York, Oklahoma, Oregon, Pennsylvania, Texas, Utah, and Washington.

of Highways is permitted. Authority in Texas rests only with cities and towns over 175,000 population.

OTHER URBAN HIGHWAYS

The legislative authority of the State highway departments is decidedly limited with respect to urban highways other than extensions of the State primary system.

Federal-aid Highways

Sometimes, State law specifically authorizes the State highway department to cooperate with municipalities in the expenditure of Federal funds. In California, for example, the Division of Highways may execute agreements with any city providing for the acquisition of property for, construction, improvement, and maintenance of any highway, including those not in the State highway system, to be constructed with Federal-aid funds. More general legislative language in Georgia permits the State Highway Department to cooperate with the Federal Government in planning, supervising, locating, improving, and constructing roads and streets in any part, section, or area of the State. Similar provisions are found in the statutes of 11 other States.²⁸

Connecting or Feeder Streets

Somewhat restrictive are the laws in five States, involving the improvement of streets connecting or providing access to urban extensions of the State system. Illustrative of this type of legislation is the enactment in Kentucky authorizing the Commissioner of Highways to designate such city streets or portions thereof as in his discretion are feeder streets necessary to produce an adequate system of highways, and the State Department of Highways is empowered to construct and reconstruct, repair, and maintain such city streets, and make appropriations out of its funds for such purposes.

A similar law in South Carolina permits the State Highway Department to establish such belt lines or spurs of less than 2 miles in length as it deems proper, and to construct and maintain such facilities. The Department of Public Works in New York may construct roads or streets in villages, to connect State highways with existing paved streets. A Louisiana statute authorizes the Department of Highways to construct spur or stub connections from State highways to the official business district, where none exist. North Carolina may construct and maintain important connecting links to State or county highway systems.

Roads to State Institutions

Four jurisdictions are permitted to establish highway facilities in connection with State institutions. Alabama law, for instance, authorizes the State to improve and maintain streets abutting State educational or charitable institutions. Even broader is a Dela-

²⁸ Idaho, Indiana, Iowa, Kansas, Massachusetts, Missouri, Nebraska, Oregon, Pennsylvania, Texas, and Wisconsin.

ware enactment involving roads leading from any public road to any institution owned or controlled in whole or in part by the State. Under Montana law, the State Highway Commission may assist municipalities in the construction of roads to and from municipal airports.

Some State authority is restricted to designated improvements, e. g., a road to serve the State College of Washington.

Secondary or State-aid Roads

The State highway departments in seven States²⁹ have some legislative authority to finance, acquire lands for, construct, and maintain urban extensions of secondary State highways or State-aid roads. Virginia, however, is empowered to act only in incorporated cities and towns under 3,500 population, while in West Virginia, authority with respect to the extent of improvement within municipalities is limited to that required outside such municipalities. Statutory provisions for all of these States are included in table 3.

ALLOCATION OF HIGHWAY FUNDS TO URBAN AREAS

More than half of the States allocate some portion of the revenues derived from highway-user imposts to urban areas, often with express provision for the improvement of urban highways other than extensions of State highways.

Broad authority is granted by law to the North Carolina State Highway and Public Works Commission, permitting the balance of State funds allocated to cities, after satisfactory improvement of local extensions of the State highway system, to be used for the betterment of streets which form important connecting links to the State highway system, the county highway system, or farm-to-market roads. The State or the city or town may undertake the improvement of such facilities, but in any event construction must be in accordance with State specifications. Any remainder shall be used for the maintenance, repair, improvement, construction,

²⁹ Connecticut, Maine, New Hampshire, Oregon, Virginia, Washington, and West Virginia.

or widening of any streets designated by the governing body of the municipality.

Somewhat of the same tenor is the California law under which five-eighths of 1 cent of the gasoline tax is allocated for expenditure within the various cities of the State, on a population basis, to be spent on major city streets that are not State highways, and on the secondary street system. The law provides that the expenditure of these funds shall be delegated by the State to the governing body of the city, if the State Division of Highways is satisfied that the city is equipped to conduct the work in an efficient manner. Otherwise, the work is to be performed by the State itself.

Three-fifths of the money apportioned to cities in California is restricted to construction expenditures on major city street systems, while the remaining two-fifths may be used for maintenance expenditures on either the major or secondary city street systems. No money apportioned to cities is earmarked for State highways, because the State is charged with the responsibility of constructing and maintaining such urban facilities.

In Illinois, approximately one-third of the motor-fuel-tax fund is allocated to the municipalities of the State for the construction and maintenance of a system of arterial streets or thoroughfares, other than urban extensions of State highways, subject to the approval of the Department of Public Works and Buildings. Improvements made on unimproved roads by cities in New Jersey, with funds allocated from the motor-vehicle fund, must conform to standards set by the State.

A unique provision has recently been added to the Oregon code, to the effect that the State may construct streets, other than State highways, receiving excessive wear through sudden increases in population or heavy industrial traffic, from a special fund designated for the purpose.

In general, however, few conditions attach to State allocations of highway-user imposts to the urban areas. Funds are apportioned most often "to cities and towns," "to cities for highway purposes," "to cities for improvement and maintenance of city streets," or according to similar provisions.

It might be mentioned, parenthetically, that a trend seems discernible toward the allocation of increased revenues from highway-user imposts to cities, though not necessarily on a percentage basis. Six States enacted legislation in 1947 increasing their highway revenue allocations to the urban areas.³⁰

A comprehensive analysis of the authority of the States, as used administratively, is found in the Public Roads Administration's *Highway Statistics, 1947*,³¹ in the section on highway taxation, particularly tables G-106, MV-106, and MC-106 (pp. 28-46).

URBAN MILEAGE UNDER STATE CONTROL

In order to provide appropriate background data for this analysis of statutory authority of State highway departments in urban areas, the compilation shown in table 2 (page 165) was made of the urban mileage under State control and its relationship to the State primary systems and to the total urban mileage in each State. The table is based on Public Roads Administration data collected from the States.

Mileage shown for State primary systems represents the number of miles for which the State actually assumes administrative control, and does not necessarily represent the entire mileage over which the State has statutory authority.

SUMMARY OF STATE STATUTORY AUTHORITY

Table 3 (pp. 166-81) reports in summary, for each State, the statutory authority of the State highway departments in municipalities, and related provisions, as of January 1, 1948. The information reported is based in part on an analysis of pertinent sections of the respective State statutory codes, and in part on a circularization of the State highway departments. Some of the provisions include administrative practice pursuant to law.

³⁰ California, Colorado, Indiana, Maryland, New Jersey, and Oregon.

³¹ *Highway Statistics, 1947*, compiled by the Public Roads Administration; Superintendent of Documents, U. S. Government Printing Office, Washington 25, D. C., 45 cents.

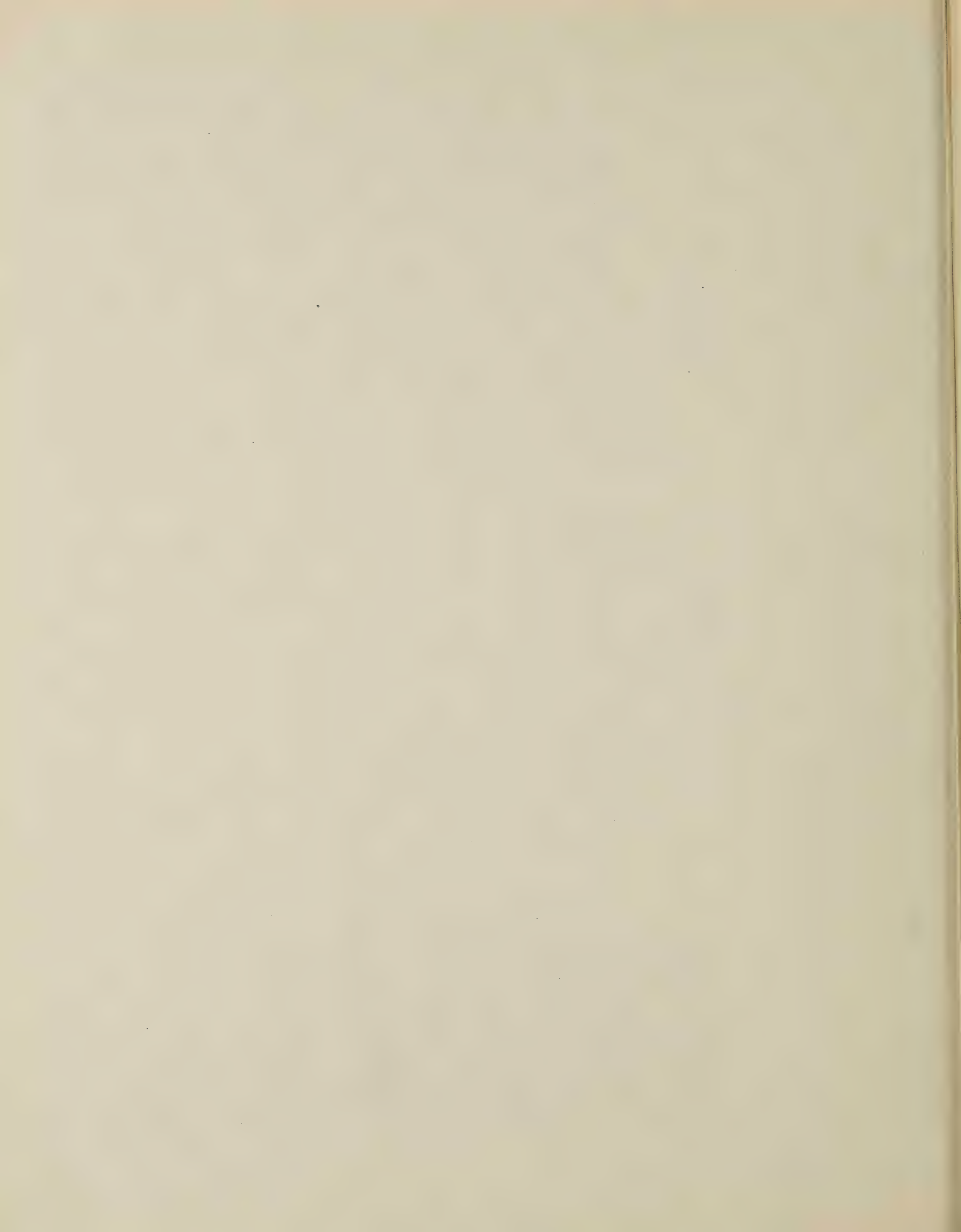
HIGHWAY PRACTICE

in the

United States of America

A 230-page, well-illustrated bulletin, *Highway Practice in the United States of America*, has been prepared by the staff of the Public Roads Administration for the use of foreign engineers who come to the United States to study and observe highway practice as it has developed in this country, and for all students, engineers, and officials interested in highways. It includes extensive discussions of highway history, administration, and finance; systems and standards; location and design; and construction and maintenance. Bibliographies are appended.

Copies of the bulletin may be purchased from the Superintendent of Documents, U. S. Government Printing Office, Washington 25, D. C., at 45 cents per copy. Prepayment is required. Do not send orders to the Public Roads Administration. No general free distribution will be made.



A complete list of the publications of the Public Roads Administration, classified according to subject and including the more important articles in PUBLIC ROADS, may be obtained upon request addressed to Public Roads Administration, Federal Works Building, Washington 25, D. C.

PUBLICATIONS of the Public Roads Administration

The following publications are sold by the Superintendent of Documents, Government Printing Office, Washington 25, D. C. Please do not send orders to the Public Roads Administration.

ANNUAL REPORTS

(See also adjacent column)

Reports of the Chief of the Bureau of Public Roads:

1931, 10 cents.	1934, 10 cents.	1937, 10 cents.
1932, 5 cents.	1935, 5 cents.	1938, 10 cents.
1933, 5 cents.	1936, 10 cents.	1939, 10 cents.

Work of the Public Roads Administration:

1940, 10 cents.	1942, 10 cents.	1947, 20 cents.
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HOUSE DOCUMENT NO. 462

Part 1 . . . Nonuniformity of State Motor-Vehicle Traffic Laws. 15 cents.
Part 2 . . . Skilled Investigation at the Scene of the Accident Needed to Develop Causes. 10 cents.
Part 3 . . . Inadequacy of State Motor-Vehicle Accident Reporting. 10 cents.
Part 4 . . . Official Inspection of Vehicles. 10 cents.
Part 5 . . . Case Histories of Fatal Highway Accidents. 10 cents.
Part 6 . . . The Accident-Prone Driver. 10 cents.

UNIFORM VEHICLE CODE

Act I.—Uniform Motor-Vehicle Administration, Registration, Certificate of Title, and Antitheft Act. 10 cents.
Act II.—Uniform Motor-Vehicle Operators' and Chauffeurs' License Act. 10 cents.
Act III.—Uniform Motor-Vehicle Civil Liability Act. 10 cents.
Act IV.—Uniform Motor-Vehicle Safety Responsibility Act. 10 cents.
Act V.—Uniform Act Regulating Traffic on Highways. 20 cents.
Model Traffic Ordinance. 15 cents.

MISCELLANEOUS PUBLICATIONS

No. 265T . . . Electrical Equipment on Movable Bridges. 40 cents.
No. 191MP . . . Roadside Improvement. 10 cents.
No. 272MP . . . Construction of Private Driveways. 10 cents.
No. 1486D . . . Highway Bridge Location. 15 cents.
Highway Accidents. 10 cents.
The Taxation of Motor Vehicles in 1932. 35 cents.
Guides to Traffic Safety. 10 cents.
An Economic and Statistical Analysis of Highway-Construction Expenditures. 15 cents.
Highway Bond Calculations. 10 cents.
Transition Curves for Highways. \$1.25.
Highways of History. 25 cents.
Public Land Acquisition for Highway Purposes. 10 cents.

Highway Practice in the United States of America. 45 cents.
Public Control of Highway Access and Roadside Development (1947 revision). 35 cents.
Tire Wear and Tire Failures on Various Road Surfaces. 10 cents.
Legal Aspects of Controlling Highway Access. 15 cents.
House Document No. 379. Interregional Highways. 75 cents.
Highway Statistics, Summary to 1945. 40 cents.
Highway Statistics, 1945. 35 cents.
Highway Statistics, 1946. 50 cents.
Highway Statistics, 1947. 45 cents.
Principles of Highway Construction as Applied to Airports, Flight Strips, and Other Landing Areas for Aircraft. \$1.50.
Federal Legislation and Regulations Relating to Highway Construction. 40 cents.
Manual on Uniform Traffic Control Devices for Streets and Highways. 50 cents.
Specifications for Construction of Roads and Bridges in National Forests and National Parks (FP-41). \$1.25.

Single copies of the following publications may be obtained free upon request addressed to the Public Roads Administration. They are not sold by the Superintendent of Documents.

ANNUAL REPORTS

(See also adjacent column)

Public Roads Administration Annual Reports:
1943. 1944. 1945.

MISCELLANEOUS PUBLICATIONS

Road Work on Farm Outlets Needs Skill and Right Equipment.
Indexes to PUBLIC ROADS, volumes 17-23, inclusive.
Bibliography on Highway Lighting.
Bibliography on Highway Safety.
Bibliography on Automobile Parking in the United States.
Express Highways in the United States: a Bibliography.
Bibliography on Land Acquisition for Public Roads.

REPORTS IN COOPERATION WITH UNIVERSITY OF ILLINOIS

No. 313 . . . Tests of Plaster-Model Slabs Subjected to Concentrated Loads.
No. 332 . . . Analyses of Skew Slabs.
No. 345 . . . Ultimate Strength of Reinforced Concrete Beams as Related to the Plasticity Ratio of Concrete.
No. 346 . . . Highway Slab-Bridges With Curbs: Laboratory Tests and Proposed Design Method.
No. 363 . . . Study of Slab and Beam Highway Bridges. Part I.
No. 369 . . . Studies of Highway Skew Slab-Bridges with Curbs. Part I: Results of Analyses.
No. 375 . . . Studies of Slab and Beam Highway Bridges. Part II.

STATUS OF FEDERAL-AID HIGHWAY PROGRAM

AS OF APRIL 30, 1949

(Thousand Dollars)

STATE	ACTIVE PROGRAM											
	UNPROGRAMMED BALANCES					CONSTRUCTION UNDER WAY					TOTAL	
	PROGRAMMED ONLY		PLANS APPROVED, CONSTRUCTION NOT STARTED			CONSTRUCTION UNDER WAY		TOTAL				
	Total Cost	Federal Funds	Miles	Total Cost	Federal Funds	Miles	Total Cost	Federal Funds	Miles	Total Cost	Federal Funds	Miles
Alabama	\$12,833	\$6,346	275.3	\$2,479	\$1,236	102.4	\$11,026	\$6,040	252.4	\$26,338	\$13,622	630.1
Arizona	6,522	4,611	99.8	187	3,448	129.1	7,120	5,135	68.3	14,429	9,878	168.3
Arkansas	10,010	5,230	318.7	7,573	3,448	129.1	7,120	3,924	100.9	24,710	12,802	548.7
California	35,333	13,107	210.8	13,583	6,002	75.4	43,118	21,362	251.0	92,034	40,471	537.2
Colorado	5,033	2,893	153.8	3,517	2,228	60.6	10,060	5,887	121.5	18,610	11,008	335.9
Connecticut	7,434	3,595	10.3	1,844	1,167	1.3	9,346	1,603	15.6	18,624	9,365	27.2
Delaware	2,388	1,193	20.5	412	201	11.5	4,519	2,790	43.7	7,319	4,184	75.7
Florida	15,986	8,153	459.6	694	366	10.6	8,128	3,440	141.9	24,808	11,959	612.1
Georgia	9,843	5,151	262.4	14,388	5,749	77.6	34,561	17,758	770.5	58,792	28,158	1,110.5
Idaho	7,721	4,822	410.2	1,538	941	52.0	4,495	2,834	83.7	13,754	8,597	545.9
Illinois	37,984	20,678	478.3	30,357	13,535	241.1	42,444	21,121	457.8	110,785	55,334	1,177.2
Indiana	23,306	11,930	101.8	5,473	2,771	39.0	22,974	12,096	141.6	51,753	26,997	282.4
Iowa	18,826	8,970	978.7	9,421	4,749	339.7	16,615	8,033	588.9	44,862	21,752	1,907.3
Kansas	15,365	7,461	1,486.6	9,802	5,000	683.7	17,764	9,048	890.0	42,931	21,509	3,060.3
Kentucky	17,174	8,549	355.2	7,716	3,956	91.0	11,721	3,834	133.3	36,611	18,339	579.5
Louisiana	29,044	13,810	323.7	11,710	5,266	73.4	16,357	7,618	123.5	57,111	26,694	520.6
Maine	7,164	3,888	78.9	2,532	1,266	31.6	5,827	2,934	41.6	15,523	8,088	152.1
Maryland	6,103	3,179	32.5	5,298	2,587	10.8	14,419	7,126	64.9	25,820	12,892	102.2
Massachusetts	20,173	10,826	34.4	2,551	1,463	1.6	20,657	10,356	30.4	43,381	22,645	66.4
Michigan	24,888	11,919	570.3	11,566	5,790	222.1	41,993	18,368	299.1	78,447	36,077	1,051.5
Minnesota	18,953	9,442	1,200.8	10,906	5,757	298.6	17,230	8,726	259.1	47,089	23,925	1,178.5
Mississippi	4,483	2,207	183.3	3,329	1,863	103.7	15,743	7,750	376.4	23,555	11,820	663.4
Missouri	33,206	16,668	877.5	9,608	4,166	242.9	26,420	14,317	500.7	69,234	35,151	1,621.1
Montana	10,028	6,335	395.2	4,530	2,612	114.8	10,891	6,544	298.6	25,449	15,491	808.6
Nebraska	18,159	9,659	613.6	3,347	1,627	69.6	10,845	5,952	376.2	32,351	17,238	1,059.4
Nevada	3,665	2,973	127.3	1,239	1,019	72.9	3,642	2,992	94.4	8,546	7,004	294.6
New Hampshire	2,801	1,311	20.1	1,140	555	8.8	3,616	2,092	18.3	7,563	4,018	45.2
New Jersey	9,756	4,813	23.6	4,995	2,599	6.8	31,704	15,704	43.9	46,455	23,116	74.3
New Mexico	4,969	3,282	187.2	2,465	1,593	47.6	5,454	3,481	142.5	12,888	8,356	377.3
New York	57,145	30,896	243.3	32,899	16,426	49.7	77,394	37,391	343.9	167,438	84,713	636.9
North Carolina	9,294	4,534	170.5	3,564	1,776	70.9	24,874	11,945	600.9	37,732	18,255	842.3
North Dakota	14,016	7,182	1,569.0	6,161	3,303	318.0	6,165	3,304	432.1	26,342	13,789	2,319.1
Ohio	33,506	15,712	255.1	4,109	2,227	52.5	52,839	26,637	187.3	90,454	44,636	494.9
Oklahoma	23,478	12,952	834.0	11,649	5,768	447.9	11,532	5,659	564.4	46,659	24,379	1,846.3
Oregon	2,410	1,209	22.6	4,482	258	8.4	12,445	5,569	145.4	15,337	7,036	176.4
Pennsylvania	28,286	14,527	71.5	8,821	4,286	7.2	68,358	34,151	176.7	105,465	52,964	255.4
Rhode Island	2,298	1,328	15.4	3,905	1,952	4.1	3,913	1,928	12.4	10,116	5,208	31.9
South Carolina	3,313	1,703	74.6	1,940	989	59.0	10,362	5,331	241.5	15,615	8,023	375.1
South Dakota	12,154	7,281	1,187.5	6,241	4,010	465.9	7,905	4,588	448.1	26,300	15,879	2,101.5
Tennessee	11,810	5,871	208.2	5,126	2,498	85.5	26,466	13,141	334.6	43,402	21,510	628.3
Texas	13,561	6,526	647.1	17,778	9,138	453.9	55,071	29,129	1,185.1	86,510	44,793	2,286.1
Utah	1,856	1,381	89.0	862	653	34.8	4,862	3,547	110.8	7,580	5,581	234.6
Vermont	3,912	1,994	64.1	2,699	1,333	3.7	4,177	2,047	99.5	8,356	4,160	127.3
Virginia	12,629	6,380	375.6	2,699	1,329	94.4	14,544	6,675	158.6	29,872	14,384	628.6
Washington	15,867	6,555	203.6	3,897	1,914	82.0	11,443	5,627	86.8	31,207	14,096	372.4
West Virginia	12,625	6,294	157.2	3,009	1,516	48.8	9,513	4,722	119.5	25,147	12,532	325.5
Wisconsin	27,311	13,495	779.7	6,198	2,950	108.7	24,590	11,280	331.4	58,099	27,725	1,219.8
Wyoming	1,178	3,952	157.3	1,230	799	52.3	7,813	5,052	229.2	12,995	8,493	438.8
Hawaii	2,364	6,420	3,198	1,979	823	.4	4,589	2,382	24.2	12,988	6,403	56.6
District of Columbia	239	2,296	2.2	380	190	.5	14,379	6,921	2.5	18,926	9,407	5.2
Puerto Rico	3,040	4,971	54.9	1,509	680	5.6	8,284	2,930	43.7	20,704	8,581	104.2
TOTAL	730,177	372,028	17,504.8	308,907	153,462	5,673.6	937,934	473,847	12,529.3	1,977,018	999,337	35,707.7

