MINUTES

ASSEMBLY TRANSPORTATION COMMITTEE
March 18, 1975

Members Present:  Mr. Glover
                 Mr. Dreyer
                 Mr. Howard
                 Mr. Dini
                 Mr. Jacobsen
                 Mrs. Hayes

Members Absent:  Mr. May

Guests  Representing

Assemblyman Lowman
John Borda  Highway Safety Coordinator
Grant Bastian  Highway Dept
James Lambert  Nevada Highway Patrol
Virgil Anderson  AAA
Frank Cady  UNR
Erin Swanson  UNR
Dede Doughty  UNR Intern
John Battles  UNR
Dave Sockle  UNR

Chairman Glover called the meeting to order at 4:20 p.m. and announced the purpose of the meeting was to discuss A.B. 225.

A.B. 225 -- Exempts from demerit points system and limits penalty for certain violations of state speed limit set pursuant to federal requirements.

Assemblyman Zel Lowman presented his written testimony (see attached) to the Committee in favor of the Bill.

Grant Bastian, Nevada State Highway Dept, was the first to speak against the Bill. He stated that he really had mixed emotions about the Bill because he would like to see the people of Nevada use all the gasoline possible to help the revenue picture. On the other hand the 55 mph speed limit is a National law and it has been dictated in the law that if the states do not comply, they will not receive National funds for their highways. He then read proof of this in the Public Law Statute 9364.3 Section 154 which said: "The secretary of Transportation shall not approve any project under Section 106 in any state which has 1) a maximum speed limit on any public highway within its jurisdiction in excess of 55 mph or 2) A speed limit on any other portion of a public highway within its jurisdiction which is not uniformly applicable to all types of motor vehicles using such a portion of highway. He said if Federal Funds were not given to Nevada this would mean a loss of $40 million per year which would mean about 50% of the people in the highway dept. would no longer have jobs."
Chairman Glover asked what would happen if the Legislature failed to act this session. Mr. Bastian felt the Legislature must act because the only thing the highway dept is operating on now is a resolution passed by the Highway Board in response to the National Emergency Highway Energy Conservation Act passed in January 3, 1974. He felt the state needs a legislative act to operate under and not an administrative decision. Also, he said the Act that the resolution was based on has been repealed by 9364.3 section 154 and so the highway dept in essence has nothing to go by right now. He stated that there are two suits filed right now against the State.

Mr. Dini asked what expressed authority there was in the State law to establish a 55 mph speed limit. Mr. Bastian stated there is a statute that provides the Highway Board authority to take whatever action is necessary to protect Federal aid.

Mr. Jacobsen asked what administrators of other states felt about the 55 mph Federal law, and Bastian answered that Nevada was one of only 3 or 4 states that was actually opposed to the action by the Federal Government.

John Borda, Highway Safety Coordinator, was the next person to testify against A.B. 225. He presented 3 handouts to the Committee (see attached) One was a letter to the Governor from James B. Gregory, Administrator of the National Highway Traffic Safety Administration; one on the fuel saving aspect, and one comparing accidents from 1973-74. He cited many statistics to prove people in Nevada are traveling slower. Consequently the rate of fatalities has dropped, proving that speed does increase the severity of an accident. He stated that nationwide the fatalities have dropped 18%, but the two states that have a similar bill to A.B. 225, Montana and Idaho, have only had a drop of 8% and 10% respectively. He also stated that Idaho has voted in their Assembly to recind their law and it is now before the Senate. He added that the 55 mph law is here to stay and that there is going to be a meeting with all State Governor's representatives in April to show the Federal Government how each individual state is complying with the law.

Mr. James Lambert, Nevada Highway Patrol, was the next person to testify against the Bill. He stated again that the Federal Government will withhold funds if the states do not comply. He also reiterated previous testimony that the Federal Government will be sending out monitors to each state to have the states show what they are doing to comply with the Federal law. As to the safety factors he stated it has been proved that lower speeds reduce fatalities and the severity of wrecks. As to the enforcement factors he stated that the way the bill is written it is almost an unenforceable law. It is not clear and hard to understand. As the bill reads according to lines 16-19, anywhere that the 55 mph is in effect now on any highway that had an existing speed limit previously to reduce accidents, the 55 mph limit will not be enforceable and no points would be given for speeding.
speeding. Two examples of this situation are in Las Vegas where the freeway goes through downtown and the speed limit was previously 65 and in Washoe Valley where the speed limit was previously 60 mph. He said there would also be a problem with the wording in line 2-4 page 2. Who would determine the 25 mile radius of the city?

Mr. Jacobsen asked what instructions has Mr. Lambert given to his patrolman in regards to enforcement. The answer was to enforce the 55 mph speed limit.

Virgil Anderson, AAA, was the next speaker. He said the people he represents had many mixed emotions about this but they could see they have no choice in the matter. At one time he stated the Federal Government was trying to make the speed limit 50 mph for cars and 55 mph for trucks. He would like to see something along these lines but with the changes of making the speed limit 60mph for cars and 55mph for trucks.

Mr. Dreyer asked about Buses. Do they ever get cited they seem to always be going over the speed limit? Mr. Lambert said they do get cited.

Mr. Jacobsen asked if any precedent had been set for fining such as $1.00 per mile over etc. Mr. Lambert that each case seems to be determined more on its own merits. A person would probably get fined more in a school zone than on the open highway.

Grant Bastian asked that one more thing be included in his testimony against the bill. He then presented evidence from the Department of Transportation from the Federal Register discussing how the speed limit was going to be enforced, how the states would have to prove their enforcement, etc. (see Attached) He also stated that Nevada would probably be one of the first to be monitored and probably would be monitored frequently because of our image against the 55 mph speed limit.

Chairman Glover ended the discussion by stating that it is frightening to see the Federal Government imposing laws on the states and then coming in to the states with monitors to check up on us.

A five minute recess was declared.

After the recess Mr. Jacobsen moved that the Committee reconsider A.B. 292; Mrs. Hayes seconded and the motion was unanimous.

Chairman Glover announced that he had a bill he would like a Committee Introduction on. It would put travel trailers under the registration fee of $5.50. Mr. Howard moved for committee introduction of the bill; Mr. Jacobsen seconded, and it was unanimous. Chairman Glover also gave the members a copy of the amendments to A.B. 120 which the committee will be considering next week. The meeting was adjourned at 5:20 p.m.
<table>
<thead>
<tr>
<th>Bills or Resolutions to be considered</th>
<th>Subject</th>
<th>Counsel requested*</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.B. 225</td>
<td>Exempts from demerit points system and limits penalty for certain violations of state speed limit set pursuant to federal requirements. Fiscal Note: No (BDR 43-45)</td>
<td>*Please do not ask for counsel unless necessary.</td>
</tr>
</tbody>
</table>
TESTIMONY ON AB 225
by Zel Lowman
March 18, 1975

1. As an immediate national reaction to the shortage of gasoline in 1973, the temporary imposition of a 55 mile per hour speed limit might have been justified. When grasping for straws in the midst of emergency, many actions are excusable which time and experience do not sustain. Last week newspaper stories reported gasoline flooding the market and a Saudi Arabia cut of 6.5 million barrels a day in crude oil to maintain the price level. From John P. Henry, Jr., director of Stanford Research Institute's Center for Energy Studies came the report that world oil supplies have already increased 5% or 30 billion barrels in known reserves since the Arab oil embargo and a speculation that within 5 years the U.S. energy shortage will be licked.

2. Yet, the 55 mph speed limit was made permanent in January and applied to us in the West where it is impractical and unnecessary as well as to those in the crowded and largely urban East and Midwest. It is being justified by many who have not done their homework on the large number of lives saved as a result of lower numbers of traffic fatalities so perhaps we should examine the claim.

3. First, Your Nevada Driving Handbook, published by the Nevada Department of Motor Vehicles makes these statements: "More than 50% of all accidents causing injury or death are at speeds under 40 miles per hour. 66% of traffic deaths happen within 25 miles of home. More than 60% of all injury producing accidents occur in urban areas."

4. Second, the National Safety Council has waxed eloquent about the saving of lives being greatly out of proportion to the decrease in driving. This may have been true as Americans responded to the first blush of national energy-saving concern, but traffic fatality figures for the whole year of 1974 (copy attached) show an entirely different story, dropping from a high of 25% decrease at the beginning of the year to 3% at the end as Americans dropped their guard and returned to their careless driving habits.

5. In addition, a December 31, 1974 news release of the Federal Highway Administration says highway travel in the United States decreased 3% over 1973 and admitted in a telephone conversation that a reasonable conclusion is that mileage rather than lower speed may be mainly responsible for lower fuel consumption.

6. Third, reductions in amount of driving are not "across the board". The family breadwinner continued to drive even when gasoline was in short supply. However, weekend recreational driving, a high
accident risk period, (28.6% of driving time, 36% of traffic fatalities on Saturday-Sunday) was down. So was family youth (15 - 24 years) driving, a high risk segment with 21.6% of the drivers and 35.5% of the nation's fatal accidents. With gasoline at its present cost level, these family prohibitions may still be in effect. High risk night driving had to be proportionately reduced because of fuel unavailability.

7. Fourth, traffic professionals find themselves at a loss to explain the drop in the number of accidents on Los Angeles streets not affected by the new speed limits. Jay Browne of the LA Traffic Department speculates that it might result from a new awareness of enforcement, a general drop in traffic, more careful driving and better care of autos. Might these not also account for most of the drop in accidents on speed-limit-controlled highways.

8. Let us now take a closer look at the argument for saving fuel. The 55 mph limit was set after a limited experiment with a small number of autos off an assembly line. I have been unable to find detailed information, but the findings for application across the nation seem questionable. Many Nevadans have written me that they find their mileage as good at 65 or 70 (one Porsche owner claims 80) as at 55 and this mirrors my own finding as I drive between Las Vegas and Carson City this session. Some correspondents report better mileage at the higher speeds, depending on the car.

9. Of course, I have also had some letters from Nevadans against AB 225 and most of these speak of the traffic safety issue which I have already discussed. I also notice opinion surveys which support the 55 mile per hour limit. Certainly one factor which should figure large in the decision on enforcement should be public acceptance and I notice that if I drive open Nevada country at 70 I can pass almost no one. In fact, most of the traffic leaves me far behind. In mid-1974 California Highway Inspector Walter Pudinski, the same fellow who instigated the infamous herding of motorists from the Los Angeles County line to the Nevada State border in February said he could arrest 100,000 speeders (45% of drivers were exceeding 55 mph on urban freeways and 70% on rural freeways in California) if he had the manpower to do it. His staff at that time was issuing 3,626 citations per day against an average of 1,300 the year before. I estimate that if we undertake to really enforce 55 in Nevada we will need to at least double our present highway patrol whose budget request for the next biennium is in excess of $3,000,000. As a straw in the wind, indicating ability to talk out of both sides of one's mouth, I read with interest in the March issue of Nevada Highway Safety News that Clark County, where enforcement is strongest, has, in the first two months of this year, the worst highway death rate in 10 years. Reasons given are "speed and drinking drivers".
10. In our nation's present economic condition, increased productivity is listed as one of the significant factors for improvement. Little publicity attends the fact that the 55 mph limit goes in exactly the opposite direction. I have learned from Motor Trucking Association officials that productivity of drivers and investment is down 12% to 15% as a result of the 55 mph limit and that it would be worse except for drivers who exceed the limit whenever possible. Rest stops were established for 65 mph average and are now largely unusable. The only way truckers can build back a portion of this productivity and stay under 55 is to carry larger volume and weight and I notice this is also generating major opposition.

11. There is also a real question concerning the constitutionality of the 55 mph limit as imposed on us by our State Highway Board. Shortly after it was done I asked for and received the attached January 29, 1974 opinion of the Legislative Council Bureau which finds the decisions highly questionable.

12. Except on the Interstate Highway System, before the passage of the national 55 mile per hour limit, 15 states and the District of Columbia had general limits of 55 or less and 12 more had 60 so more than half of the populous Eastern states were virtually unaffected. However, because control experts believe all Americans should fit the same mold, it was forced on those of us in the West, many of us here to live away from those very Eastern conditions, one of which is now being extended to us by a not-so-benevolent central government.

Montana shrugged the major effect of the 55 mph limit off when she enacted last year a measure very much like AB 225 (copies). A check with that state's administrator of the Motor Vehicle Division indicated no threats to cut off Federal funds as a result of the new law.

13. The ideal speed limit should be appropriate to road and weather conditions and take into account the type of vehicle being driven and the amount of traffic. Since no bureaucrat is likely to be willing to leave these decisions to the driver as Colorado did on open highways when I was growing up there, we have the tendency to try to make us all look alike and the opportunity grasped in each national crisis to further extend control of individual action. As a signal to the Federal government, I urge that we join Montana in this reaction to more control and pass AB 225. I would further urge that this Committee send a resolution to the U.S. Congress urging a raise to 70 miles per hour limits for those states which had such limits or no limits previously.
March 10, 1975

MEMORANDUM

TO: Assemblyman Zelvin D. Lowman
FROM: Mary Lou Love, Deputy Researcher, Office of Research
RE: 55 MPH Speed Limit

Here are the figures you requested from the National Safety Council:

<table>
<thead>
<tr>
<th>Month</th>
<th>1973</th>
<th>1974</th>
<th>Percent Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td>January</td>
<td>4,040</td>
<td>3,090</td>
<td>24</td>
</tr>
<tr>
<td>February</td>
<td>3,540</td>
<td>2,660</td>
<td>25</td>
</tr>
<tr>
<td>March</td>
<td>4,360</td>
<td>3,270</td>
<td>25</td>
</tr>
<tr>
<td>April</td>
<td>4,610</td>
<td>3,510</td>
<td>24</td>
</tr>
<tr>
<td>May</td>
<td>4,840</td>
<td>3,750</td>
<td>23</td>
</tr>
<tr>
<td>June</td>
<td>5,250</td>
<td>4,330</td>
<td>18</td>
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<tr>
<td>July</td>
<td>5,320</td>
<td>4,380</td>
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<tr>
<td>August</td>
<td>5,220</td>
<td>4,600</td>
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<tr>
<td>September</td>
<td>4,990</td>
<td>4,230</td>
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<tr>
<td>October</td>
<td>5,350</td>
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<td>November</td>
<td>4,340</td>
<td>4,050</td>
<td>7</td>
</tr>
<tr>
<td>December</td>
<td>3,940</td>
<td>3,830</td>
<td>3</td>
</tr>
<tr>
<td>TOTAL</td>
<td>55,800</td>
<td>46,200</td>
<td>17</td>
</tr>
</tbody>
</table>
32-2144. Subject to Administrative Procedure Act. The establishment of a speed limit pursuant to section 1 of this act (32-2144.1) shall not be subject to the provisions and requirements of the Montana Administrative Procedure Act, section 82-4201, R. C. M. 1947, et seq.

History: En. 32-2144.4 by Sec. 4, Ch. 60, L. 1974.

32-2144.5. Lower speed limits. Nothing in this act shall prohibit any state, county, municipal or other local official, board, or body which has authority to enact laws relating to motor vehicle speed limits from establishing speed limits lower than that required by federal law on any public streets or highways as permitted by law on the effective date of this act.

History: En. 32-2144.5 by Sec. 5, Ch. 60, L. 1974.

32-2144.6. Enforcement. (1) A person violating the speed limit imposed pursuant to section 1 of this act (32-2144.1) is guilty of the offense of unnecessary waste of a resource currently in short supply and upon conviction shall be fined not to exceed five dollars ($5) and no jail sentence may be imposed. Bond for this offense shall be five dollars ($5). For the purpose of this act only, the fees of the justice of the peace shall be four dollars ($4) to be remitted as set forth in section 25-311.

History: En. 32-2144.6 by Sec. 6, Ch. 60, L. 1974; amd. Sec. 1, Ch. 248, L. 1974.

Compiler's Notes
Section 6 of Ch. 60, Laws 1974, contains a subsection (2) reading as follows: "No violation of this act shall be recorded or charged against the driver's record of a person convicted of violating this act and that [sic] no insurance company shall hold a violation of this act against the insured and there shall be no increase in premiums due to a violation of this act." Subsection (2) was omitted in the amendment of the section by Sec. 1, Ch. 248, Laws 1974.

Amendments
Chapter 248, Laws of 1974, inserted the bracketed reference to "32-2144.1" in subsection (1); added the last sentence to subsection (1); and deleted subsection (2) as set forth in the Compiler's Notes, above.

Effective Date
Section 2 of Ch. 248, Laws 1974 provided the act should be in effect from and after its passage and approval. Approved March 21, 1974.

32-2144.7. Existing statutes not affected. This act in no way affects traffic control statutes and violation of existing statutes shall be prosecuted solely as provided therein.

History: En. 32-2144.7 by Sec. 7, Ch. 60, L. 1974.

Effective Date
Section 8 of Ch. 60, Laws 1974 provided the act should be in effect from and after its passage and approval. Approved March 21, 1974.

32-2145. Establishment of special speed zones. (1) If the department of highways determines upon the basis of an engineering and traffic investigation that a speed limit set by section 32-2144 is greater or less than is reasonable or safe under the conditions found to exist at an intersection, curve, dangerous location, or any other part of a highway under its jurisdiction a special speed limit
(2) The department of highways shall not be subject to the provisions and requirements of the Montana Administrative Procedure Act, section 82-4201, R. C. M. 1947, et seq.
(3) The authority to set special speed limits shall be in the director of the department of highways or his designee.
(4) This section provides for the establishment of special speed zones in all places where the department of highways determines that the establishment of a speed limit pursuant to section 1 of this act (32-2144.1) is not reasonable or safe under the conditions found to exist at an intersection, curve, dangerous location, or any other part of a highway.

History: En. Sec. 1, amd. Sec. 1, Ch. 193, L. 1955, Ch. 316, L. 1974.

32-2146. Whenever a local authority imposes a speed limit in any locality, the limits so imposed shall be in effect immediately and no notice of violation thereof shall be recorded or charged against the driver's record of a person convicted of violating this act, and that no insurance company shall hold a violation of this act against the insured and there shall be no increase in premiums due to a violation of this act.

History: En. Sec. 6, Ch. 60, L. 1974.

Amendments
Section 6 of Ch. 60, Laws 1974, inserted the bracketed reference to "32-2144.1" in subsection (1); added the last sentence to subsection (1); and deleted subsection (2) as set forth in the Compiler's Notes, above.

Effective Date
Section 8 of Ch. 60, Laws 1974 provided the act should be in effect immediately after its passage and approval. Approved March 21, 1974.

32-2147. Mitigation of a motor vehicle crash.
MEMORANDUM

January 29, 1974

To: Perry P. Burnett, Acting Legislative Counsel

From: James Kosinski, Deputy Legislative Counsel

Re: Imposing a maximum 55 mph speed limit throughout our state highway system. (Supersedes memo dated December 21, 1973.)

On January 16, 1974, the Board of Directors of the Nevada Department of Highways passed a resolution imposing a maximum speed limit of 55 mph on most highways throughout the state. (Appendix A) The resolution stated that it was adopted because the provisions of the "Emergency Highway Energy Construction Act" (Appendix B), signed by the president on January 3, 1974, prohibit the Secretary of Transportation from approving projects under section 106 of Title 23 of the United States Code if a state has not imposed a maximum 55 mph speed limit. Section 106 is the source of congressional authority for the distribution of highway trust funds to the individual states.

The power of the Board of Directors to impose the speed limit is presumably contained in the provisions of NRS 408.245 which provides:

1. The State of Nevada and its department hereby accepts and assents to the provisions of:
   (a) The Federal Aid Road Act, being an Act of Congress entitled "An Act to provide that the United States shall aid the States in the construction of rural post-roads, and for other purposes," approved July 11, 1916 (c.241, 39Stat.355); and
   (b) The Federal Highway Act, being an Act of Congress entitled "An Act To amend the Act entitled 'An Act to provide that the United States shall aid
Memorandum to Perry P. Burnett
January 29, 1974
Page 2

the States in the construction of rural post-roads, and for other purposes," approved July 11, 1916, as amended and supplemented, and for other purposes," approved November 9, 1921 (c.119,42Stat.212).

2. The state and its department accepts as a continuing obligation any and all acts amendatory or supplementary to such federal acts.

Conclusion

1. The resolution of the Board of Directors of the Nevada State Highway Department is subject to challenge on the basis that the board lacks legislative authority for such action. NRS 408.245 pertains to the Federal Aid Road Act (1916) and the Federal Highway Act (1921), which were both repealed by Public Law 85-767 passed in 1958.

2. NRS 408.245 is probably unconstitutional under section 1, article 4 of the constitution of the State of Nevada. This statutory provision appears to be an unconstitutional delegation of legislative power.

3. Subsection 2 of NRS 408.245 is probably unconstitutional under section 17, article 4 of the constitution of the State of Nevada. This statutory provision permits the laws of Nevada to be amended without following constitutionally mandated procedures.

4. NRS 408.245 may be unconstitutional under other provisions of section 17, article 4 of the constitution of the State of Nevada. The title may not give adequate notice of the contents of the law.

I.

A. The provisions of NRS 408.245 were approved on April 1, 1957, as chapter 370, Statutes of Nevada 1957. This chapter was a comprehensive and exhaustive treatment of statutory provisions providing for the construction and maintenance of Nevada's state highways. The Federal Aid Road Act (1916), referred to in paragraph (a), subsection 1 of NRS 408.245, was the initial endeavor by Congress to provide a comprehensive highway system throughout the United States. The Federal
Highway Act (1921), referred to in paragraph (b), subsection 1 of NRS 408.245, was a major amendment of the Federal Aid Road Act (1916). Since 1916 there have been numerous lesser amendments of the 1916 Act.

As indicated above, NRS 408.245 was adopted in April, 1957. On August 27, 1958, PL 85-767 was approved by the president. This act was entitled "An Act to revise, codify and enact into law Title 23 of the United States Code, entitled 'Highways'." Subsections 1 and 3, section 2 of this Act specifically repealed:

- Act of July 11, 1916 (39 Stat., ch. 241, page 355) (Federal Aid Road Act-1916); and

- Act of November 9, 1921 (42 Stat., ch. 119, page 212) (Federal Highway Act-1921).

NRS 408.245 has not been amended since its enactment in 1957.

It appears, therefore, that subsection 1 of NRS 408.245 is not legislative authority for the Board of Directors of the Nevada State Department to impose a statewide maximum speed limit since these acts have been repealed.

B. Subsection 2 of NRS 408.245 provides that Nevada "* * * accepts as a continuing obligation any and all acts amendatory or supplementary * * *" to the 1916 and 1921 acts.

Most of the cases defining "amendatory" acts were concerned with state constitutional provisions which placed certain restrictions on the enactment of "amendments" as opposed to the enactment of "original" acts. However, some of this judicial reasoning may be helpful and applicable;

"Amendment" of a statute implies its survival and not destruction. It repeals or changes some provision, or adds something thereto. A law is "amended" when it is in whole or in part permitted to remain, and something is added to or taken from it, or it is in some way changed or altered to make it more complete or perfect. Wheeler v. Board of Trustees of Fargo Consolidation School District, 37 S.E.2d 322.
Whether statute is amendatory or complete in itself is to be determined by comparison of provisions with prior laws remaining in force, and if complete on subject with which it deals, statute is not subject to constitutional objection of amendment by reference, but if it attempts to amend old law by intermingling new and different provisions, or by adding new provisions, it must be regarded as "amendatory" of old law so that law amended must be inserted at length therein. Demotte v. Demotte, 4 N.E.2d 960.

"Amendment" is alteration effecting change in draft, or form, or substance of law already enacted or of bill proposed for enactment. Maclean v. Brodigan, 41 Nev. 468, 172 Pac. 375 (1918).

Concluding from these cases, it appears that an act is amendatory only if the prior act, or parts of it, are permitted to remain. In this case the 1958 act repealed the 1916 and 1921 acts in their entirety.

An argument might be made that since the 1916 and 1921 acts were amended numerous times prior to 1958, and, that since some of these amendments were not repealed by the 1958 act, the latter is an "amendment" to these surviving amendments. Sands states that:

On the theory that provisions of the original act reenacted in an amendatory act are a continuation of the original act, it is held that repeal of the original act repeals those provisions of the original act which were reenacted in the amendatory act. Sutherland Statutory Construction, Vol. 1(a), section 22:39, 1972.

From this it appears that nothing of the 1916 and 1921 acts survived the 1958 act.

From the cases I have located, it is not clear whether the 1958 act is "amendatory" to the 1916 and 1921 Acts. However, it seems that the collected authority strongly supports a conclusion that it is not amendatory.
C. The authority relating to "supplementary" acts also appears to mitigate against the position taken by the highway board. A "supplementary" act is defined as:

That which supplies a deficiency, adds to or completes, or extends that which is already in existence without changing or modifying the original; an act designed to improve an existing statute, adding something thereto without changing the original text. Swanson v. State, 132 Neb. 82, 271 N.W. 264.

The reasonable conclusion to be drawn from this definition is that an act is not "supplementary" if the original act has been repealed.

Though it appears that the 1958 act is not amendatory or supplementary to the 1916 and 1921 acts, an argument might be developed that the intent of Congress was merely to codify and revise the previous acts. The purpose of the 1958 act was explained in Senate Report No. 1928, which stated:

PURPOSE OF THE BILL

The purpose of this bill is to revise, modify, clarify and enact into law title 23 of the United States Code.

Revision, as distinguished from codification, means the substitution of plain language for awkward terms, reconciliation of conflicting laws, omission of superseded sections, and consolidation of similar provisions. The purpose of this revision is not to change substantive law, but to put that law in a form which will be more useful and understandable.

The first Federal-Aid Road Act was approved on July 11, 1916. Since that date, Congress has enacted about 40 separate laws on the subject, excluding appropriation acts. Many new provisions were inserted in the various enactments. The existing laws contain provisions which are obsolete and which have amended, supplemented, or repealed, expressly or by implication, earlier provisions of law. As a result, the necessity of dealing with these many enactments has made the administration of the Federal-aid highway program difficult. The bill
will place in a one-package enactment a clear, concise, up-to-date version of all the existing Federal highway laws in an orderly and logical arrangement. While the bill contains certain technical refinements and language changes to conform to existing practices and procedures, it is not intended to change any of the fundamental and underlying concepts of existing Federal highway legislation or to make any changes of real substance.

**SCOPE OF REVIsION**

This revision is based upon title 23 of the United States Code and is designed to include all of the permanent provisions of the Federal highway laws which have been enacted from the date of the original law in 1916. Included in this revision are the substantive provisions of permanent law as have been contained in various appropriation acts over the years. It does not include any provisions deemed to be of a temporary nature. *(1958 U.S. Code Cong. and Adm. News p. 3942)*

I included this report to illustrate that I have not found a clear answer to the issue of whether the 1958 act is amendatory or supplementary to the 1916 and 1921 acts.

I conclude that the resolution of the Board of Directors of the Nevada Department of Highways is subject to serious challenge on the basis that the board probably lacked legislative authority for such action.

**II.**

A. Section 1, article 4 of the constitution of the State of Nevada provides:

The Legislative authority of this State shall be vested in a Senate and Assembly which shall be designated "The Legislature of the State of Nevada" and the sessions of such Legislature shall be held at the seat of government of the State.
Law making powers under the Nevada constitution are reserved to the legislature. The legislature may not delegate to another the power to enact the law, though it may delegate authority or discretion to be exercised under, and in pursuance of, law. (AGO 188, 8-22, 1935)

The provisions of NRS 408.245 vest in Congress the power to write Nevada law. It provides that prospective federal legislation will be the law of the State of Nevada.

There are many cases collected in 133 A.L.R. holding that statutes similar to NRS 408.245 are an impermissible delegation of legislative power. There are a few cases holding to the contrary, but most of these deal with mandatory federal legislation which would be binding on a state in any event because of the "Supremacy Clause" of the U.S. Constitution (Article VI of the Constitution of the United States). Most of the provisions in the various Federal acts pertaining to highways are not mandatory. Instead, compliance is often required as a condition precedent to receiving certain federal funds. Certainly in this particular case (Emergency Highway Energy Construction Act), the provisions are not mandatory.

I conclude that NRS 408.245 is unconstitutional under the provisions of section 1, article 4 of the constitution of the State of Nevada.

B. Section 17, article 4 of the constitution of the State of Nevada provides:

Each law enacted by the Legislature shall embrace but one subject, and matter, properly connected therewith, which subject shall be briefly expressed in the title; and no law shall be revised or amended by reference to its title only; but, in such case, the act as revised or section as amended, shall be re-enacted and published at length.

Subsection 1 of NRS 408.245 provides that the 1916 and 1921 acts are part of the law of the State of Nevada. Subsection 2 of NRS 408.245 provides that Nevada "accepts" amendatory and supplementary acts to the 1916 and 1921 acts.
However, any Congressional legislation which amended the 1916 and 1921 acts—since such amendments have been prospectively accepted by Nevada—would be effectively "revising" or "amending" a law of the State of Nevada without reference to its title and without its being reenacted and published at length. Both of these procedural requirements are required by section 17, article 4 of our constitution. (AGO 17, 2-17-1923)

I conclude that subsection 2 of NRS 408.245 is unconstitutional under the provisions of section 17, article 4 of the constitution of the State of Nevada.

C. An argument might be made that NRS 408.245 violates those provisions of section 17, article 4 of the constitution of the State of Nevada requiring that a law "* * * shall embrace but one subject, and matter properly connected therewith, * * * *" This might be based on the argument that subrogation of the state to federal legislation is of sufficient importance that its specific inclusion in the title of an act is necessary to "* * * prevent surprise or fraud upon legislature by means of provisions in bills of which titles give no intimation, and to apprise the public of subjects of legislation under consideration." State v. Ah Sam, 15 Nev. 27 (1880).

While the subrogation of the Nevada Legislature to prospective federal legislation is "related to" the subject matter of the title (State Highways and Roads) (Appendix C), the provision appears to be sufficiently unusual and important to require greater notice in the title.

I am not prepared to conclude that this argument would prevail in court, however, it is a reasonable and possible challenge.

JNK: mjf
RESOLUTION BY THE BOARD OF DIRECTORS OF THE
STATE OF NEVADA DEPARTMENT OF HIGHWAYS ESTABLISHING
STATEWIDE SPEED LIMIT

WHEREAS, on January 3, 1974, President Richard M. Nixon signed
the "Emergency Highway Energy Construction Act"; and

WHEREAS, said Act prohibits the Secretary of Transportation
from approving any project under Section 106 of Title 23 of the United States
Code in any State which has a maximum speed limit on any public highway
within its jurisdiction in excess of 55 miles per hour; and

WHEREAS, Section 2(f) of the Act provides that the requirements of
Section 2 of the Act (maximum speed limit 55 miles per hour) may be complied
with through administrative action lawfully taken by the Governor or other
appropriate State official that complies with the requirements of the section;
and

WHEREAS, pursuant to the provisions of Nevada Revised Statute
408.245, the State of Nevada and its Department of Highways accepts and
assents to the provisions of the Federal Aid Road Act approved July 11, 1916,
and the Federal Highway Act approved July 11, 1916, and November 9, 1921,
and further accepts as a continuing obligation any and all acts amendatory
or supplementary to such federal acts; and

WHEREAS, it has been determined that a nationwide maximum
speed limit of 55 miles per hour will conserve fuel during periods of current
and imminent fuel shortages; and

WHEREAS, the Board of Directors of the State of Nevada Department
of Highways feels that the establishment of a maximum speed limit of 55 miles
per hour on the highways under their jurisdiction will be in the best interests
of the citizens of the State of Nevada and of the United States of America.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the State of Nevada Department of Highways, that pursuant to the provisions of the Emergency Highway Energy Construction Act signed January 3, 1974, and the provisions of NRS 408.245 hereinbefore mentioned, the maximum speed limit on the highways under the jurisdiction of this Board shall be 55 miles per hour effective the 1st day of March, 1974.

ADOPTED this 16th day of January, 1974.

ATTEST:

[Signature]
Secretary to the Board

Presented by:

[Signature]
State Highway Engineer

APPROVED AS TO LEGALITY AND FORM:

[Signature]
Deputy Attorney General
Chief Counsel
Department of Highways

BOARD OF DIRECTORS, STATE OF NEVADA DEPARTMENT OF HIGHWAYS

By:
Chairman

Member

Member

APPENDIX A (PAGE 2)
An Act

To conserve energy on the Nation's highways.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Emergency Highway Energy Conservation Act".

SEC. 2. (a) The purpose of this section is to conserve fuel during periods of current and imminent fuel shortages through the establishment of a national maximum highway speed limit.

(b) After the sixtieth day after the date of enactment of this Act, the Secretary of Transportation shall not approve any project under section 106 of title 23 of the United States Code in any State which has (1) a maximum speed limit on any public highway within its jurisdiction in excess of 55 miles per hour, and (2) a speed limit for all types of motor vehicles other than 55 miles per hour on any portion of any public highway within its jurisdiction of four or more traffic lanes, the opposing lanes of which are physically separated by means other than striping, which portion of highway had a speed limit for all types of motor vehicles of 55 miles, or more, per hour on November 1, 1973, and (3) a speed limit on any other portion of a public highway within its jurisdiction which is not uniformly applicable to all types of motor vehicles using such portion of highway. If on November 1, 1973, such portion of highway had a speed limit which was uniformly applicable to all types of motor vehicles using it. A lower speed limit may be established for any vehicle operating under a special permit because of weight or dimension of any vehicle, including any load thereon. Clause (2) and (3) of this section shall not apply to any portion of a highway during such time that the condition of the highway, weather, an accident, or other condition creates a temporary hazard to the safety of traffic on such portion of a highway.

(c) (1) For the purposes of this section the terms "highway" and "State" shall have the same meanings as in section 101 of title 23, United States Code, except as appertained to any State under section 104 of title 23, United States Code, shall be available to pay the entire cost of any modification of the signing of the Federal-aid highways for which such sums are apportioned within such State due to a reduction in speed limits to conserve fuel if such change in signing occurs or has occurred after November 1, 1973.

(2) As used in this Act, the term "motor vehicle" means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a railroad.

(d) Notwithstanding the provisions of section 120 of title 23, United States Code, funds appertained to any State under section 104 of title 23, United States Code, shall be available to pay the entire cost of any modification of the signing of the Federal-aid highways for which such sums are apportioned within such State due to a reduction in speed limits to conserve fuel if such change in signing occurs or has occurred after November 1, 1973.

(e) This section shall cease to be in effect (1) on and after the date on which the President declares that there is not a fuel shortage requiring the application of this Act, or (2) on and after June 30, 1975, whichever date first occurs.

(f) The requirements of this section shall be deemed complied with by administrative action lawfully taken by the Governor or other appropriate State official that complies with this section.
Sec. 3. (a) To conserve fuel, decrease traffic congestion during rush
hours, improve air quality, and enhance the use of existing highways 
and parking facilities, the Secretary of Transportation is authorized 
to approve demonstration projects designed to encourage the use of 
carpools in urban areas.

(b) Proposals shall be originated by local officials and submitted by 
the State in accordance with the provisions of section 103(d) of title 
23, United States Code. The Secretary of Transportation shall ap-
prove for funding those projects which offer reasonable prospects of 
achieving the objectives set forth in subsection (a) of this section.

(c) A project may include, but not be limited to, such measures as 
systems for locating potential riders and informing them of con-
venient carpool opportunities, designating existing highway lanes as 
preferential carpool highway lanes or shared bus and carpool lanes, 
providing related traffic control devices, and designating existing 
publicly owned facilities for use as preferential parking for carpool.

(d) A project authorized by this section shall be subject to, and 
carried out in accordance with all of the provisions of chapter 1 of 
title 23, United States Code, applicable to highway projects, except 
that the Federal share of such project shall be 90 per cent, the 
Federal share shall not exceed $4,000,000 for any single project, and 
only funds apportioned under section 104(b) (2) and (6) of such 
title shall be available to carry out projects authorized by this section. 
The Secretary shall not approve any project under this section after 
December 31, 1974.

(e) The Secretary of Transportation shall conduct a full investiga-
tion of the effectiveness of measures employed in the demonstration 
projects authorized by subsection (a) of this section. In addition, he 
shall, in cooperation with the Internal Revenue Service, the Environ-
mental Protection Agency, and other appropriate Federal and State 
agencies, study other measures, including but not limited to tax and 
other economic incentives, which might lead to significant increases in 
carpool ridership in urban areas throughout the country, and shall 
identify any institutional or legal barriers to such measures and the 
costs and benefits of such measures. He shall report to the Congress 
not later than December 31, 1974, his findings, conclusions, and rec-
ommendations resulting from such investigation and study. Funds 
authorized to carry out section 507 of title 23, United States Code, are 
authorized to be used to carry out the investigation and study author-
ized by this subsection.

Sec. 4. Section 601(d) of the Federal Aviation Act of 1958, as 
amended (49 U.S.C. 1421) is amended to read as follows:

"Emergency Locator Transmitters"

"(d) (1) Except with respect to aircraft described in paragraph 
(2) of this subsection, minimum standards pursuant to this section 
shall include a requirement that emergency locator transmitters shall 
be installed—

"(A) on any fixed-wing, powered civil aircraft for use in air 
commerce the manufacture of which is completed, or which is 
imported into the United States, after one year following the 
date of enactment of this subsection; and

"(B) on any fixed-wing, powered civil aircraft used in air 
commerce after three years and six months following such date.

"(2) The provisions of this subsection shall not apply to:

"(A) Turbojet-powered aircraft;"
"(B) Aircraft while engaged in scheduled flights by scheduled air carriers certificated by the Board;  
"(C) Aircraft while engaged in training operations conducted entirely within a fifty-mile radius of the airport from which such local flight operations began;  
"(D) Aircraft while engaged in flight operations incident to design and testing;  
"(E) New aircraft while engaged in flight operations incident to their manufacture, preparation, and delivery;  
"(F) Aircraft while engaged in flight operations incident to the aerial application of chemicals and other substances for agricultural purposes;  
"(G) Aircraft certificated by the Administrator for research and development purposes;  
"(H) Aircraft while used for showing compliance with regulations, crew training, exhibition, air racing, or market surveys; and  
"(I) Aircraft equipped to carry not more than one person."

Speaker of the House of Representatives.

Vice President of the United States and President of the Senate.
AN ACT to amend Title 25 of NRS relating to highways, roads, bridges and parks by creating a new chapter relating to state highways and roads; declaring the legislative intent; defining certain words and terms; creating a department of highways and its board of directors; creating the office of state highway engineer; providing certain funds for public highway purposes; defining and describing the state highway system and designating routes; providing for the construction, improvement and maintenance of highways and for the acquisition and disposal of property for highway purposes; providing penalties for violations thereof; to repeal chapters 601 and 402 of NRS relating to federal and state highways; and other matters properly relating thereto.

[Approved April 1, 1937]
IN REPLY REFER TO:

Honorable Mike O'Callaghan
Governor of Nevada
Carson City, Nevada

Dear Gov. O'Callaghan:

Thanks so much again for all your courtesy and time in meeting with me last month. I have been very impressed with the competence and dedication of John Borda and your Highway Safety staff, but your obvious direct support of the program "says it all." My visit with you confirms that we have a sound and determined State-Federal partnership going, and I want to do everything possible to keep it that way.

In that spirit, I want to express my concern about an article appearing last week in a Reno paper which reports on an assemblyman's plan to submit a bill to the Nevada legislature that could seriously erode the impact of the 55 MPH speed limit both in terms of fuel conservation and safety. The newspaper account correctly indicates that the remarkable reduction in highway fatalities during 1974 was not totally the product of reduced speed. We know that reduced travel and other factors accounted for part of the reduction. Nevertheless, we are convinced that a major part of the savings in lives can be credited to lower speeds, and certainly the fuel saved can be well documented, the factor that occasioned the reduced speed limit to begin with.

Another safety concern: besides promoting, or at least winking at speeds higher than 55 MPH, this type of bill could lead to much greater variation in highway speeds, with some motorists observing the nominal limit, and others disregarding it altogether. We know from sad experience that such variations are hazardous, both to the fast and to the slow.
As you know, Congress has now converted the original emergency speed limit measures into permanent form and has charged the Department of Transportation with overseeing the States' enforcement of the 55 MPH limit. The legislation provides that a State which fails to certify that it is enforcing the speed limit stands to lose approval of its Federal-aid highway construction projects. If a bill such as that cited in the article were enacted, there could be serious question as to whether or not a State can certify that it is effectively enforcing the national speed limit. We sincerely hope that legislation of this type will not prove attractive to legislatures, in Nevada or elsewhere.

I wanted to bring these concerns of ours to your attention and will appreciate anything you can do to head off what could be a serious situation.

With all best wishes.

Sincerely,

James B. Gregory
Administrator

[Handwritten note: Just saw your recent note. Cutsie should arrive in a few days. We'll be looking forward to the proposal to the project you want us.]

[Signature]
Want to know why driving seems to get worse and worse? It's those other cars on the road. The 100,000,000-mark was passed last year - but it doesn't include 23,300,000 trucks and buses in there fighting for road space. Traffic is worse in some places than others; 52.2% of the cars are in 20% of the states: California, Texas, New York, Pennsylvania, Ohio, Illinois, Michigan, Florida, New Jersey and North Carolina. At present rates of growth, the car count will be nearing 150,000,000 by 1984.

* * * * *

The 55-m.p.h. limit imposed by the federal government due to the energy shortage is not an arbitrary figure. It is based on the findings of a DOT study of gas consumption in relation to speed. The study showed that a typical 4,000-pound car travels 11.08 miles per gallon at 70 m.p.h., 13.67 miles per gallon at 60 m.p.h., 16.98 miles per gallon at 50 m.p.h., and 14.89 miles per gallon at 40 m.p.h. The study concluded that cars obtain the best gasoline mileage in the range of 50 to 55 m.p.h. and that speeds above and below that range reduce fuel economy.

* * * * *

Inflation is so bad that one supermarket put up a sign reading: "Express lane - $30 or less."
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<th>Change</th>
<th>Percentage</th>
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<td>Fatalities</td>
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<td>216</td>
<td>-51</td>
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<td>8,344</td>
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<tr>
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DEPARTMENT OF THE INTERIOR
Geological Survey
[30 CFR Parts 211, 216]
COAL MINING OPERATING
REGULATIONS

Extension of Comment Time

On January 30, 1975, the Department of the Interior published as proposed rulemaking at 40 FR 4428 a revised 30 CFR Part 211—Coal Mining Operating Regulations and a repeal of 30 CFR Part 216—Operating Regulations Governing the Mining of Coal in Alaska. In the notice it was stated that written comments, suggestions, or objections with respect to proposed rulemaking could be submitted on or before March 3, 1975. The period for submitting comments, suggestions, or objections is hereby extended so that they may be submitted on or before March 18, 1975.


C. KING MALLORY,
Deputy Assistant Secretary of the Interior.

DEPARTMENT OF AGRICULTURE
Food and Nutrition Service
[7 CFR Part 271]

FOOD STAMP PROGRAM
Submission of State Plans to Governors

Pursuant to the authority contained in the Food Stamp Act of 1974 (78 Stat. 703, as amended; 7 USC 2011-2026), notice is hereby given that the Food and Nutrition Service, Department of Agriculture intends to amend Part 271 of its regulations governing the operation of the Food Stamp Program, 7 CFR 271. The amendment is for the purpose of implementing Part III of OMB Circular A-95 regarding the submission of State plans and amendments to the State Governor for review and comment on their relationship to other State plans and programs.

Interested persons may submit written comments, suggestions, or objections regarding the proposed amendment to P. Royal Shipp, Director, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, all submissions must be received not later than April 7, 1975.

All comments, suggestions or objections received by this date will be considered before the final regulations are issued. Comments, suggestions, or objections will be open to public inspection pursuant to 7 CFR 1.177(b) at the Office of the Director during regular business hours (8:30 a.m. to 5 p.m.) at 600 12th Street SW., Washington, D.C. Room 560. The proposed amendment is as follows:

Section 271.8 of Part 271 of Chapter II, Title 7 of the Code of Federal Regulations is amended by adding a new para-

DEPARTMENT OF TRANSPORTATION
Federal Highway Administration
[23 CFR Part 658]

MAXIMUM NATIONAL SPEED LIMIT
Maximum Vehicle Weight and Size

This notice proposes to amend Part 658 of title 23, Code of Federal Regulations, to implement those provisions of the Federal-Aid Highway Amendments of 1974, 7 U.S.C. 2011-2026, relating to the establishment of a 55 mph national maximum speed limit, to the enforcement of the speed limit on public highways, and to the enforcement of the weight and size limitations on the Federal-aid highway systems. The new paragraph of the proposed amendment is as follows:

A. In most respects, this process would be unchanged from the former version of Part 658. To reflect one variation between the temporary and permanent laws, the States could elect to fix their speed limits lower than 55 mph on roads that had formerly had higher limits. In most cases, the States could satisfy this aspect of the regulation by submitting certification information similar to the information they submitted in 1974.

In addition to section 154, the new Act added a new section 141, Enforcement of requirements, to title 23, United States Code. The new section provides that the States shall certify to the Secretary that they are enforcing the 55 mph speed limit established by section 154 and that they are enforcing the weight and size requirements on the Federal-aid highway systems, including the Interstate System in accordance with section 127 of title 23, United States Code. The section further provides that the Secretary shall not approve highway projects under 23 U.S.C. 105 in any State which has failed to certify that it is enforcing the speed limit and weight and size requirements. The regulation proposed by this notice would therefore establish a process for the States' certification of enforcement of sections 154 and 127.

With respect to enforcement of the national maximum speed limit, the proposed regulation would direct the States to submit two categories of enforcement-related information in support of their certification that they are enforcing the 55 mph speed limit. The first category of information concerns enforcement agency authority and activity. Several items of information are proposed: the number of highway miles subject to the 55 mph limit in each State, the percentage patrolled by State and by local personnel, the enforcement policy statements issued, and the monthly number of citations and warnings issued by State and local law enforcement agencies.

Experience under the new speed limit during 1974 showed a significant drop in traffic fatalities. A system of speed limit enforcement has been used by most States in recent years for purposes of highway planning. In late 1973, the Federal Highway Administration requested the States to conduct special speed studies, apart from their usual planning activity, to monitor the effectiveness of the 55 mph limit. The information submitted by the 23 States which responded to the request enabled the Department to compile a
rough nation-wide profile of the observance of the speed limit. The Department considers knowledge of actual speeds to be essential to enforcement planning and, therefore, proposes a requirement that the States submit a basic amount of information relating to speed limit observance.

The specific items requested concerning speed observance are aimed at determining vehicle speeds under conditions where the speed limit is the principal constraint on speed. Thus, the observations should be made on level stretches of straight roadway in dry weather during a period of three to four hours in which the traffic volume is light enough to permit speeds higher than 55 mph. The proposed regulation does not specify the number of observations to be made, or the exact roads to be observed. However, the observations should be frequent enough to measure trends in speeds and should be conducted on roads representative of the mix of roads in the State. The Department of Transportation will conduct its own program to monitor vehicle speeds on the State roads.

Although the proposed regulation would require the State certifications to contain the foregoing information relating to enforcement, it would not necessitate an acceptable level of enforcement or a minimum level of speed limit observance. The partial data submitted thus far to the Federal Highway Administration appears to show that vehicle speeds are the limits on weights and sizes.

It is proposed to revise 23 CFR Part 658 to read as follows:

PART 658—NATIONAL MAXIMUM SPEED LIMIT; MAXIMUM VEHICLE WEIGHTS AND SIZES

§ 658.1 Scope and purpose.

(b) Purpose. The purpose of this Part is to conserve fuel and increase safety through enforcement of the 55 mph maximum national speed limit and to preserve highway pavement and structures and increase safety through enforcement of maximum vehicle weight and size.

§ 658.3 Definitions.
As used in this Part:
(b) “Highway” means all streets, roads, or parkways under the jurisdiction of a State, including its political subdivisions, and open for use by the general public, and includes toll facilities.
(c) “Motor vehicle” means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on gravel or dirt roads.
(d) “State” means any one of the fifty States, the District of Columbia, and Puerto Rico.

In order to obtain approval of Federal-aid projects under 23 U.S.C. 106, each State shall adopt or maintain maximum speed limits as follows:
(a) The maximum speed limit on any highway in the State shall be 55 mph or less, except that emergency and police motor vehicles may be authorized to operate at higher speeds when necessary to protect health or safety.
(b) Except as provided in paragraphs (c) or (d) of this section, the speed limit on any portion of a highway shall be uniformly applicable to all types of motor vehicles using such portion of the highway, if on November 1, 1975, such portion of highway had a speed limit which was uniformly applicable to all types of vehicles using it.
(c) Notwithstanding the provisions of paragraph (b) of this section, a State
may establish a lower speed limit for a
motor vehicle operating under a special
permit because of any weight or dimen-
sion of such vehicle, including any load
therein.
(4) Notwithstanding the provisions of
paragraph (b) of this section, a State may
specify nonuniform speed limits on
any portion of a highway when the con-
ditions, including weather, an ac-
cident, or other condition creates a
temporary hazard to the safety of traffic
on such portion of a highway.
§ 658.6 Statement of compliance.
Each Governor shall submit to the
Federal Highway Administrator, not
later than 30 days after issuance of this
Part, a statement that the State has
complied with section 154 of title 23.
(a) Contents of statement. The state-
ment shall include:
(1) A copy of each law, regulation, or
administrative order adopted by the
State legislature, the Governor, or other
State or local official or agency to im-
plement the Act, including all laws, regu-
lations, and orders which specify enact-
ments for violation of the 55 mph speed
limit;
(2) An opinion of the State's legal
counsel that the action taken is lawful
in each case where the action is not based
on a specific, cited provision of State
statute (such as the State's assent law)
or the State's constitution; and
(3) A statement that speed limit signs
have been changed when necessary to
reflect modifications in speed limits re-
quired by the Act.
(b) Effect of stated action. Adminis-
trative action lawfully taken by a Gov-
ernor or other appropriate State official
in compliance with the Act and as speci-
fied in the State's statement shall be
deemed to place the State in compliance
with the Act.

In order to obtain approval of Federal-
aid projects under 23 U.S.C. 106, the Gov-
ernor of each State shall certify to the
Federal Highway Administrator before
January 1 of each year that the State is
enforcing the national maximum speed
limit of 55 miles per hour. The certifica-
tion shall consist of the following ele-
ments:
(a) A statement signed by the Gover-
nor certifying that the State is en-
forcing the national maximum speed
limit.
(b) Copies of any laws, regulations, or
administrative orders relating to enforce-
ment of the 55 mph speed limit, which
were adopted after the date of the state-
ment required by section 658.6, and which
have not been included in earlier certifi-
cations under this section.
(c) Information relating to enforce-
ment, as follows:
(1) The approximate number of miles
of highways having posted or allowable
speeds of 55 miles per hour.
(2) The approximate portion of the
mileage listed in paragraph (c) (1) of this
section on which the State has patrol
responsibility, and the portion on which
local law enforcement agencies have
patrol responsibility, counting portions
concurrently patrolled as both State and
local.
(3) The administrative orders or in-
structions regarding enforcement agency
policy on enforcement of the 55 mile per
hour limit.
(4) The number of citations and warn-
ings issued by State and local agen-
cies for violation of the 55 mile per hour
speed limit during each month of the
year preceding the date of certification.
(d) Information relating to observ-
ance of the speed limit by motorists, as
follows:
(1) A description of the State program
for monitoring speeds, including the
number of stations for each type of high-
way, the basis for determining the num-
ber and location of stations, the fre-
quency and duration of operations, and
the total sample size and basis for sam-
ple selection.
(2) The data obtained from the moni-
toring program, classified according to
highway type ( Interstate rural, Inter-
state urban, other multi-lane divided
rural and urban, major divided rural,
etc.), indicating the average speed, the
median speed, the 85th percentile speed,
and the percent of motorists exceeding
55, 60, and 65 miles per hour.

In order to obtain approval of Federal-
aid projects under 23 U.S.C. 106, each
State shall certify to the Federal High-
way Administrator that the State is en-
forcing its laws on all Federal-aid high-
ways and on the Federal-Aid-Interstate
System in accordance with 23 U.S.C. 127.
The certification shall consist of the fol-
lowing elements:
(a) A statement, to be submitted before
September 30 of each year by the Gover-
nor of the State, that the size and weight
laws and regulations in the State con-
form to 23 U.S.C. 127 and that size and
weight limits are being enforced, which state-
ment shall include the following infor-
mation relating to enforcement:
(1) A copy of any law or regulation
pertaining to vehicles sizes and weights
adopted since the State's last certifica-
tion;
(2) The name of the agencies en-
forcing State size and weight limits;
(3) The number of fixed scales in place
along the Federal-Aid highway system or
in other positions to weigh vehicles which
will use the Federal-Aid highway;
(4) The number of portable scales
controlled by the State which can be used
along the Federal-Aid highway system;
(5) The days and hours of operation of
all such scales;
(6) The number of enforcement per-
sonnel used in the actual measurement
of sizes and weights;
(7) The number of citations, assess-
ments, or arrests made by such personnel
for size or weight violations; and
(8) The number of overweight permits
issued.
§ 658.11 Federal reimbursement for
sign modifications.
(a) Availability of funds. Federal-aid
highway funds apportioned to a State
under 23 U.S.C. 104 are available to pay
reimbursement of the eligible costs of modify-
ifying the signatories on Federal-Aid highway
systems to carry out the intent of the
Act.
(b) Eligible costs. Any costs incurred
by a State after November 1, 1973 for
modifying speed limit signs are eligible
for participation even though the proj-
et was not programmed before the work
was done. Eligible costs will normally be
limited to the costs of changing the
numerals on speed limit signs to reflect
a new speed limit.
§ 658.13 Procedures for obtaining re-
imbursabl e for sign modification
costs.
To simplify and expedite payment of
the cost of modifying signs to carry out the
Act, the following procedures for ob-
taining Federal-aid highway funds are
authorized:
(a) States should submit a single
statement on all Federal-aid highway
system. The Federal Highway Adminis-
tration has found that it is in the public
interest to permit sign modification work
to carry out the Act to be performed by
force account.
(b) A complete PS&E submission is
not required. Each State must prepare
and submit a cost estimate to permit the
development of a project agreement.
(c) The Federal Highway Administra-
tion will accept simplified cost records.
The development and use of an average
cost-per-sign figure will be acceptable for
cost reimbursement purposes.
§ 658.15 Effect of failure to certify.
After January 1, 1976, a State that has
not submitted certifications determined by the Secretary or his designee, in con-
form with sections 658.6, 658.7, and 658.9
of this Part shall not receive approval of
its plans, specifications and estimates
and shall not receive authorization to
advertise for bids for construction, until
such time as it has submitted such con-
forming certifications.

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