TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 23—Continued

Title 23 Former Sections	*Title 23 New Sections*
158(c)	104(b)(4)
158(d)	104(b)(5)
158(d)	104 note
158(e)	120(c)
158(f), (g)	118(c)
158(h)	115
158(i)	109(b)
158(j)	127
158(k)	307 note
159	107
160	108
161	124
162	123
163	111
164	129(b)–(d)
165	Elim.
166	113
167	101(b), 128(a), (b), 304
168	Elim.
169 (less last proviso)	Rep.
169 (last proviso)	Elim.
170	305
171	306
172	Rep.
173	120 note
174	307 note
175	Elim.

CITATION

Section 1 of Pub. L 85–767, Aug. 27, 1958, 72 Stat. 885, provided in part that this title may be cited as ''Title 23, United States Code, §—''.

REPEALS

Section 2 of Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 919, repealed the sections or parts of sections of the Revised Statutes or Statutes at Large covering provisions codified in this title.

CONSTRUCTION

Section 3 of Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 921, provided that:

''(a) If any provision of title 23, as enacted by section 1 of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the title and the application of the provision to other persons or circumstances shall not be affected thereby.

''(b) The provisions of this Act shall be subject to Reorganization Plan Numbered 5 of 1950 (64 Stat. 1263) [set out in the Appendix to Title 5, Government Organization and Employees].''

SAVINGS PROVISION

Section 4 of Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 921, provided that: ''Any rights or liabilities now existing under prior Acts or portions thereof shall not be affected by the repeal of such prior Acts or portions under section 2 of this Act.''

RECODIFICATION OF TITLE 23

Pub. L. 104–59, title III, §357(a), Nov. 28, 1995, 109 Stat. 625, provided that: ''The Secretary [of Transportation] shall, by March 31, 1997, prepare and submit to Congress a draft legislative proposal of necessary technical and conforming amendments to title 23, United States Code, and related laws.''

Pub. L. 102–240, title I, §1066, Dec. 18, 1991, 105 Stat. 2006, provided that the Secretary of Transportation was to have prepared, by Oct. 1, 1993, a proposed recodification of title 23, United States Code, and related laws for submission to Congress for consideration, prior to repeal by Pub. L. 104–59, title III, §357(b), Nov. 28, 1995, 109 Stat. 625.

CHAPTER 1—FEDERAL-AID HIGHWAYS

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AMENDMENTS

2008—Pub. L. 110–244, title I, §101(m)(3)(C), June 6, 2008, 122 Stat. 1576, struck out ''replacement and rehabilitation'' after ''Highway bridge'' in item 144.

2005—Pub. L. 109–59, title I, §1801(b), title VI, §6002(c), Aug. 10, 2005, 119 Stat. 1456, 1865, which directed amendment of the analysis for ''such subchapter'' by adding items 139 and 147 and by striking out former item 147 ''Priority primary routes'', was executed by making the amendment to the analysis for this chapter which did not contain subchapters to reflect the probable intent of Congress and the amendment by Pub. L. 109–59, §1602(e)(1). See below.

Pub. L. 109–59, title I, §1602(b)(6)(A), (e)(1), Aug. 10, 2005, 119 Stat. 1247, before item 101, struck out item for subchapter I ''GENERAL PROVISIONS'', and at end, struck out item for subchapter II ''INFRASTRUCTURE FINANCE'', items 181 ''Definitions'', 182 ''Determination of eligibility and project selection'', 183 ''Secured loans'', 184 ''Lines of credit'', 185 ''Program administration'', 186 ''State and local permits'', 187 ''Regulations'', 188 ''Funding'', and 189 ''Report to Congress'', and subchapter I heading ''GENERAL PROVISIONS''.

Pub. L. 109–59, title I, §§1104(b), 1120(b), 1121(b)(2), 1401(a)(2), 1601(i), title VI, §6001(c), Aug. 10, 2005, 119 Stat. 1165, 1192, 1196, 1225, 1243, 1857, added items 105, 134, 135, 148, 165, 166, and 185 and struck out former items 105 ''Minimum guarantee'', 134 ''Metropolitan planning'', 135 ''Statewide planning'', 148 ''Development of a national scenic and recreational highway'', and 185 ''Project servicing''.

1999—Pub. L. 106–159, title I, §102(b), Dec. 9, 1999, 113 Stat. 1753, struck out item 110 ''Uniform transferability of Federal-aid highway funds'', added item 126, and made technical amendment to item 163.

1998—Pub. L. 105–178, title I, §§1103(*l*)(5), 1226(d), 1405(b), 1406(b), as added by Pub. L. 105–206, title IX, §§9002(c)(1), 9003(a), 9005(a), July 22, 1998, 112 Stat. 834, 837, 843, struck out item 126 ''Diversion'' and item 150 ''Allocation of urban system funds'', and added items 154 and 164.

Pub. L. 105–178, title I, §§1104(b), 1105(b), 1106(c)(2)(A), 1114(b)(1), 1203(n), 1219(b), 1301(d)(2), 1303(b), 1305(d), 1310(b), 1403(b), 1404(b), 1503(b), 1601(c), June 9, 1998, 112 Stat. 129, 131, 136, 154, 179, 221, 226, 227, 229, 235, 240, 241, 250, 256, added item for subchapter I, substituted ''Minimum guarantee'' for ''Programs'' in item 105, ''Project approval and oversight'' for ''Plans, specifications, and estimates'' in item 106, ''Advance acquisition of real property'' for ''Advance acquisition of rights-of-way'' in item 108, and ''Revenue aligned budget authority'' for ''Project agreements'' in item 110, added item 110 relating to uniform transferability of Federal-aid highway funds, substituted ''High priority projects program'' for ''Certification acceptance'' in item 117, made technical amendment to item 134, struck out item 139 ''Additions to Interstate System'', substituted ''Highway use tax evasion projects'' for ''Economic growth center development highways'' in item 143, ''Proceeds from the sale or lease of real property'' for ''Income from airspace rights-of-way'' in item 156, and ''Safety incentive grants for use of seat belts'' for ''Minimum allocation'' in item 157, added items 162 and 163, item for subchapter II, and items 181 to 189, and added subchapter I heading before section 101.

1995—Pub. L. 104–59, title II, §205(d)(2), title III, §§311(c), 320(b), Nov. 28, 1995, 109 Stat. 577, 584, 590, substituted ''Payments'' for ''Payment'' and ''and other debt instrument financing'' for ''retirement'' in item 122, struck out item 154 ''National maximum speed limit'', and added item 161.

1991—Pub. L. 102–240, title I, §§1007(a)(2), 1008(c), 1009(e)(2), 1014(b), 1016(f)(3), 1024(c)(1), 1025(b), 1031(a)(2), Dec. 18, 1991, 105 Stat. 1930, 1933, 1934, 1942, 1946, 1962, 1965, 1973, substituted ''Program efficiencies'' for ''Authorizations'' in item 102, substituted ''maintenance program'' for ''System resurfacing'' in item 119, added item 133, substituted ''Metropolitan planning'' for ''Transportation planning in certain urban areas'' in item 134, substituted ''Statewide planning'' for ''Traffic operations improvement programs'' in item 135, substituted ''Congestion mitigation and air quality improvement program'' for ''Truck lanes'' in item 149, and added items 153 and 160.

Pub. L. 102–143, title III, §333(b), (c), Oct. 28, 1991, 105 Stat. 947, added item 159 and repealed Pub. L. 101–516, §333(b), which added former item 159. See 1990 Amendment note below.

1990—Pub. L. 101–516, title III, §333(b), Nov. 5, 1990, 104 Stat. 2186, which added item 159, was repealed by Pub. L. 102–143, title III, §333(c), Oct. 28, 1991, 105 Stat. 947. Section 333(d) of Pub. L. 102–143 provided that the amendments made by section 333 of Pub. L. 101–516 shall be treated as having not been enacted into law.

1987—Pub. L. 100–17, title I, §§113(d)(2), 114(e)(5), 125(b)(1), 126(b), 133(b)(1), Apr. 2, 1987, 101 Stat. 150, 153, 167, 171, substituted ''Advance construction'' for ''Construction by States in advance of apportionment'' in item 115, and ''Availability of funds'' for ''Availability of sums apportioned'' in item 118, struck out ''and width'' after ''Vehicle weight'' in item 127, substituted ''Carpool and vanpool projects'' for identical words in item 146, ''National bridge inspection program'' for ''Pavement marking demonstration program'' in item 151, and ''Income from airspace rights-of-way'' for ''Highways crossing Federal projects'' in item 156.

1984—Pub. L. 98–363, §6(b), July 17, 1984, 98 Stat. 437, added item 158.

1983—Pub. L. 97–424, title I, §119(c), Jan. 6, 1983, 96 Stat. 2111, substituted ''Nondiscrimination'' for ''Equal employment opportunity'' in item 140.

Pub. L. 97–424, title I, §150(b), Jan. 6, 1983, 96 Stat. 2132, added item 157.

1978—Pub. L. 95–599, §§116(c), 124(b), 168(c), Nov. 6, 1978, 92 Stat. 2699, 2705, 2723, substituted ''Interstate System resurfacing'' for ''Repealed'' in item 119, ''Highway bridge replacement and rehabilitation program'' for ''Special bridge replacement program'' in item 144, ''Hazard elimination program'' for ''Projects for high-hazard locations'' in item 152, and ''Repealed'' for ''Program for the elimination of roadside obstacles'' in item 153.

1976—Pub. L. 94–280, title I, §§123(b), 128(b), 132(b), 139, May 5, 1976, 90 Stat. 439–441, 443, substituted item 135 ''Traffic operations improvement programs'' for ''Urban area traffic operations improvement programs''; substituted item 146 ''Repealed'' for ''Special urban high density traffic programs''; added item 156 ''Highways crossing Federal projects''; and substituted item lll ''Agreements relating to use of and access to rights-of-way—Interstate System'' for ''Use of and access to rights-of-way—Interstate System'' and substituted items 119 and 133 ''Repealed'' for ''Administration of Federal-aid for highways in Alaska'' and ''Relocation assistance'', respectively.

1975—Pub. L. 93–643, §§107(b), 114(b), 115(b), Jan. 4, 1975, 88 Stat. 2284, 2286, 2287, substituted item 141 reading ''Enforcement of requirements'' for prior text reading ''Real property acquisition policies'', and added items 154 and 155.

1973—Pub. L. 93–87, title I, §§116(b), 121(b), 123(b), 125(b), 126(b), 129(c), 142(b), 157(b), title II, §§205(b), 209(b), 210(b), Aug. 13, 1973, 87 Stat. 258, 261, 263, 264, 266, 272, 278, 285, 287, 288, substituted ''Certification acceptance'' for ''Secondary road responsibilities'' in item 117, ''Public transportation'' for ''Urban highway public transportation'' in item 142, and added items 145 to 153.

1970—Pub. L. 91–605, title I, §§111(b), 127(b), 134(b), title II, §204(b), Dec. 31, 1970, 84 Stat. 1720, 1731, 1734, 1742, added items 142, 143, 144, and substituted ''Fringe and corridor parking facilities'' for ''Limitation on authorization of appropriations for certain purposes'' in item 137.

1968—Pub. L. 90–495, §§10(b), 12(b), 16(b), 22(b), 25(c), 35(b), Aug. 23, 1968, 82 Stat. 820, 822, 823, 827, 829, 836, added items 135, 139, 140, and 141 and substituted ''Pre-

vailing rate of wage'' for ''Prevailing rate of wage—Interstate System'' in item 113 and ''Construction by States in advance of apportionment'' for ''Construction by States in advance of apportionment—Interstate System'' in item 115.

1966—Pub. L. 89–574, §§8(c)(2), 15(b), Sept. 13, 1966, 80 Stat. 769, 771, added items 137 and 138.

Pub. L. 89–564, title I, §102(b)(1), Sept. 9, 1966, 80 Stat. 734, struck out item 135 relating to highway safety programs.

1965—Pub. L. 89–285, title I, §102, title II, §202, Oct. 22, 1965, 79 Stat. 1030, 1032, substituted ''Control of outdoor advertising'' for ''Areas adjacent to the Interstate System'' in item 131, and added item 136.

Pub. L. 89–139, §4(b), Aug. 28, 1965, 79 Stat. 579, added item 135.

1962—Pub. L. 87–866, §§5(b), 9(b), Oct. 23, 1962, 76 Stat. 1147, 1148, added items 133 and 134.

1960—Pub. L. 86–657, §§4(b), 5(b), July 14, 1960, 74 Stat. 523, included ferries in item 129 and added item 132.

§ 101. Definitions and declaration of policy

(a) DEFINITIONS.—In this title, the following definitions apply:

(1) APPORTIONMENT.—The term ''apportionment'' includes unexpended apportionments made under prior authorization laws.

(2) CARPOOL PROJECT.—The term ''carpool project'' means any project to encourage the use of carpools and vanpools, including provision of carpooling opportunities to the elderly and individuals with disabilities, systems for locating potential riders and informing them of carpool opportunities, acquiring vehicles for carpool use, designating existing highway lanes as preferential carpool highway lanes, providing related traffic control devices, and designating existing facilities for use for preferential parking for carpools.

(3) CONSTRUCTION.—The term ''construction'' means the supervising, inspecting, actual building, and incurrence of all costs incidental to the construction or reconstruction of a highway, including bond costs and other costs relating to the issuance in accordance with section 122 of bonds or other debt financing instruments and costs incurred by the State in performing Federal-aid project related audits that directly benefit the Federal-aid highway program. Such term includes—

(A) locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration of the Department of Commerce);

(B) resurfacing, restoration, and rehabilitation;

(C) acquisition of rights-of-way;

(D) relocation assistance, acquisition of replacement housing sites, and acquisition and rehabilitation, relocation, and construction of replacement housing;

(E) elimination of hazards of railway grade crossings;

(F) elimination of roadside obstacles;

(G) improvements that directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas; and

(H) capital improvements that directly facilitate an effective vehicle weight enforcement program, such as scales (fixed and portable), scale pits, scale installation, and scale houses.

(4) COUNTY.—The term ''county'' includes corresponding units of government under any other name in States that do not have county organizations and, in those States in which the county government does not have jurisdiction over highways, any local government unit vested with jurisdiction over local highways.

(5) FEDERAL-AID HIGHWAY.—The term ''Federal-aid highway'' means a highway eligible for assistance under this chapter other than a highway classified as a local road or rural minor collector.

(6) FEDERAL-AID SYSTEM.—The term ''Federal-aid system'' means any of the Federal-aid highway systems described in section 103.

(7) FEDERAL LANDS HIGHWAY.—The term ''Federal lands highway'' means a forest highway, public lands highway, park road, parkway, refuge road, and Indian reservation road that is a public road.

(8) FOREST DEVELOPMENT ROADS AND TRAILS.—The term ''forest development roads and trails'' means forest roads and trails under the jurisdiction of the Forest Service.

(9) FOREST HIGHWAY.—The term ''forest highway'' means a forest road under the jurisdiction of, and maintained by, a public authority and open to public travel.

(10) FOREST ROAD OR TRAIL.—The term ''forest road or trail'' means a road or trail wholly or partly within, or adjacent to, and serving the National Forest System that is necessary for the protection, administration, and utilization of the National Forest System and the use and development of its resources.

(11) HIGHWAY.—The term ''highway'' includes—

(A) a road, street, and parkway;

(B) a right-of-way, bridge, railroad-highway crossing, tunnel, drainage structure, sign, guardrail, and protective structure, in connection with a highway; and

(C) a portion of any interstate or international bridge or tunnel and the approaches thereto, the cost of which is assumed by a State transportation department, including such facilities as may be required by the United States Customs and Immigration Services in connection with the operation of an international bridge or tunnel.

(12) INDIAN RESERVATION ROAD.—The term ''Indian reservation road'' means a public road that is located within or provides access to an Indian reservation or Indian trust land or restricted Indian land that is not subject to fee title alienation without the approval of the Federal Government, or Indian and Alaska Native villages, groups, or communities in which Indians and Alaskan Natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians.

(13) INTERSTATE SYSTEM.—The term ''Interstate System'' means the Dwight D. Eisenhower National System of Interstate and Defense Highways described in section 103(c).

(14) MAINTENANCE.—The term ''maintenance'' means the preservation of the entire highway, including surface, shoulders, roadsides, structures, and such traffic-control devices as are necessary for safe and efficient utilization of the highway.

(15) MAINTENANCE AREA.—The term ''maintenance area'' means an area that was designated as a nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

(16) NATIONAL HIGHWAY SYSTEM.—The term ''National Highway System'' means the Federal-aid highway system described in section 103(b).

(17) OPERATING COSTS FOR TRAFFIC MONITORING, MANAGEMENT, AND CONTROL.—The term ''operating costs for traffic monitoring, management, and control'' includes labor costs, administrative costs, costs of utilities and rent, and other costs associated with the continuous operation of traffic control, such as integrated traffic control systems, incident management programs, and traffic control centers.

(18) OPERATIONAL IMPROVEMENT.—The term ''operational improvement''—

(A) means (i) a capital improvement for installation of traffic surveillance and control equipment, computerized signal systems, motorist information systems, integrated traffic control systems, incident management programs, and transportation demand management facilities, strategies, and programs, and (ii) such other capital improvements to public roads as the Secretary may designate, by regulation; and

(B) does not include resurfacing, restoring, or rehabilitating improvements, construction of additional lanes, interchanges, and grade separations, and construction of a new facility on a new location.

(19) PARK ROAD.—The term ''park road'' means a public road, including a bridge built primarily for pedestrian use, but with capacity for use by emergency vehicles, that is located within, or provides access to, an area in the National Park System with title and maintenance responsibilities vested in the United States.

(20) PARKWAY.—The term ''parkway'', as used in chapter 2 of this title, means a parkway authorized by Act of Congress on lands to which title is vested in the United States.

(21) PROJECT.—The term ''project'' means an undertaking to construct a particular portion of a highway, or if the context so implies, the particular portion of a highway so constructed or any other undertaking eligible for assistance under this title.

(22) PROJECT AGREEMENT.—The term ''project agreement'' means the formal instrument to be executed by the State transportation department and the Secretary as required by section 106.

(23) PUBLIC AUTHORITY.—The term ''public authority'' means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.

(24) PUBLIC LANDS DEVELOPMENT ROADS AND TRAILS.—The term ''public lands development roads and trails'' means those roads and trails that the Secretary of the Interior determines are of primary importance for the development, protection, administration, and utilization of public lands and resources under the control of the Secretary of the Interior.

(25) PUBLIC LANDS HIGHWAY.—The term ''public lands highway'' means a forest road under the jurisdiction of and maintained by a public authority and open to public travel or any highway through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations under the jurisdiction of and maintained by a public authority and open to public travel.

(26) PUBLIC LANDS HIGHWAYS.—The term ''public lands highways'' means those main highways through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations, which are on the Federal-aid systems.

(27) PUBLIC ROAD.—The term ''public road'' means any road or street under the jurisdiction of and maintained by a public authority and open to public travel.

(28) REFUGE ROAD.—The term ''refuge road'' means a public road that provides access to or within a unit of the National Wildlife Refuge System and for which title and maintenance responsibility is vested in the United States Government.

(29) RURAL AREAS.—The term ''rural areas'' means all areas of a State not included in urban areas.

(30) SAFETY IMPROVEMENT PROJECT.—The term ''safety improvement project'' means a project that corrects or improves high hazard locations, eliminates roadside obstacles, improves highway signing and pavement marking, installs priority control systems for emergency vehicles at signalized intersections, installs or replaces emergency motorist aid call boxes, or installs traffic control or warning devices at locations with high accident potential.

(31) SECRETARY.—The term ''Secretary'' means Secretary of Transportation.

(32) STATE.—The term ''State'' means any of the 50 States, the District of Columbia, or Puerto Rico.

(33) STATE FUNDS.—The term ''State funds'' includes funds raised under the authority of the State or any political or other subdivision thereof, and made available for expenditure under the direct control of the State transportation department.

(34) STATE TRANSPORTATION DEPARTMENT.—The term ''State transportation department'' means that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction.

(35) TRANSPORTATION ENHANCEMENT ACTIVITY.—The term ''transportation enhancement activity'' means, with respect to any project or the area to be served by the project, any of the following activities as the activities relate to surface transportation:

(A) Provision of facilities for pedestrians and bicycles.

(B) Provision of safety and educational activities for pedestrians and bicyclists.

(C) Acquisition of scenic easements and scenic or historic sites (including historic battlefields).

(D) Scenic or historic highway programs (including the provision of tourist and welcome center facilities).

(E) Landscaping and other scenic beautification.

(F) Historic preservation.

(G) Rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals).

(H) Preservation of abandoned railway corridors (including the conversion and use of the corridors for pedestrian or bicycle trails).

(I) Inventory, control, and removal of outdoor advertising.

(J) Archaeological planning and research.

(K) Environmental mitigation—

(i) to address water pollution due to highway runoff; or

(ii)[1] reduce vehicle-caused wildlife mortality while maintaining habitat connectivity.

(L) Establishment of transportation museums.

(36) URBAN AREA.—The term ''urban area'' means an urbanized area or, in the case of an urbanized area encompassing more than one State, that part of the urbanized area in each such State, or urban place as designated by the Bureau of the Census having a population of 5,000 or more and not within any urbanized area, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall encompass, at a minimum, the entire urban place designated by the Bureau of the Census, except in the case of cities in the State of Maine and in the State of New Hampshire.

(37) URBANIZED AREA.—The term ''urbanized area'' means an area with a population of 50,000 or more designated by the Bureau of the Census, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall encompass, at a minimum, the entire urbanized area within a State as designated by the Bureau of the Census.

(38) ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.—The term ''advanced truck stop electrification system'' means a system that delivers heat, air conditioning, electricity, or communications to a heavy duty vehicle.

(39) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

(A) IN GENERAL.—The term ''transportation systems management and operations'' means an integrated program to optimize the performance of existing infrastructure through the implementation of multimodal and intermodal, cross-jurisdictional systems, services, and projects designed to preserve capacity and improve security, safety, and reliability of the transportation system.

(B) INCLUSIONS.—The term ''transportation systems management and operations'' includes—

(i) regional operations collaboration and coordination activities between transportation and public safety agencies; and

(ii) improvements to the transportation system, such as traffic detection and surveillance, arterial management, freeway management, demand management, work zone management, emergency management, electronic toll collection, automated enforcement, traffic incident management, roadway weather management, traveler information services, commercial vehicle operations, traffic control, freight management, and coordination of highway, rail, transit, bicycle, and pedestrian operations.

(b) DECLARATION OF POLICY.—

(1) ACCELERATION OF CONSTRUCTION OF FEDERAL-AID HIGHWAY SYSTEMS.—Congress declares that it is in the national interest to accelerate the construction of Federal-aid highway systems, including the Dwight D. Eisenhower National System of Interstate and Defense,[2] because many of the highways (or portions of the highways) are inadequate to meet the needs of local and interstate commerce for the national and civil defense.

(2) COMPLETION OF INTERSTATE SYSTEM.—Congress declares that the prompt and early completion of the Dwight D. Eisenhower National System of Interstate and Defense Highways (referred to in this section as the ''Interstate System''), so named because of its primary importance to the national defense, is essential to the national interest. It is the intent of Congress that the Interstate System be completed as nearly as practicable over the period of availability of the forty years' appropriations authorized for the purpose of expediting its construction, reconstruction, or improvement, inclusive of necessary tunnels and bridges, through the fiscal year ending September 30, 1996, under section 108(b) of the Federal-Aid Highway Act of 1956 (70 Stat. 374), and that the entire system in all States be brought to simultaneous completion. Insofar as possible in consonance with this objective, existing highways located on an interstate route shall be used to the extent that such use is practicable, suitable, and feasible, it being the intent that local needs, to the extent practicable, suitable, and feasible, shall be given equal consideration with the needs of interstate commerce.

(3) TRANSPORTATION NEEDS OF 21ST CENTURY.—Congress declares that—

(A) it is in the national interest to preserve and enhance the surface transportation system to meet the needs of the United States for the 21st Century;

[1] So in original. The word ''to'' probably should appear.

[2] So in original. Probably should be ''Defense Highways,''.

(B) the current urban and long distance personal travel and freight movement demands have surpassed the original forecasts and travel demand patterns are expected to continue to change;

(C) continued planning for and investment in surface transportation is critical to ensure the surface transportation system adequately meets the changing travel demands of the future;

(D) among the foremost needs that the surface transportation system must meet to provide for a strong and vigorous national economy are safe, efficient, and reliable—

(i) national and interregional personal mobility (including personal mobility in rural and urban areas) and reduced congestion;

(ii) flow of interstate and international commerce and freight transportation; and

(iii) travel movements essential for national security;

(E) special emphasis should be devoted to providing safe and efficient access for the type and size of commercial and military vehicles that access designated National Highway System intermodal freight terminals;

(F) the connection between land use and infrastructure is significant;

(G) transportation should play a significant role in promoting economic growth, improving the environment, and sustaining the quality of life; and

(H) the Secretary should take appropriate actions to preserve and enhance the Interstate System to meet the needs of the 21st Century.

(c) It is the sense of Congress that under existing law no part of any sums authorized to be appropriated for expenditure upon any Federal-aid system which has been apportioned pursuant to the provisions of this title shall be impounded or withheld from obligation, for purposes and projects as provided in this title, by any officer or employee in the executive branch of the Federal Government, except such specific sums as may be determined by the Secretary of the Treasury, after consultation with the Secretary of Transportation, are necessary to be withheld from obligation for specific periods of time to assure that sufficient amounts will be available in the Highway Trust Fund to defray the expenditures which will be required to be made from such fund.

(d) No funds authorized to be appropriated from the Highway Trust Fund shall be expended by or on behalf of any Federal department, agency, or instrumentality other than the Federal Highway Administration unless funds for such expenditure are identified and included as a line item in an appropriation Act and are to meet obligations of the United States heretofore or hereafter incurred under this title attributable to the construction of Federal-aid highways or highway planning, research, or development, or as otherwise specifically authorized to be appropriated from the Highway Trust Fund by Federal-aid highway legislation.

(e) It is the national policy that to the maximum extent possible the procedures to be utilized by the Secretary and all other affected heads of Federal departments, agencies, and instrumentalities for carrying out this title and any other provision of law relating to the Federal highway programs shall encourage the substantial minimization of paperwork and interagency decision procedures and the best use of available manpower and funds so as to prevent needless duplication and unnecessary delays at all levels of government.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 885; Pub. L. 86–70, §21(e)(1), June 25, 1959, 73 Stat. 146; Pub. L. 86–624, §17(a), July 12, 1960, 74 Stat. 415; Pub. L. 87–866, §6(a), Oct. 23, 1962, 76 Stat. 1147; Pub. L. 88–423, §3, Aug. 13, 1964, 78 Stat. 397; Pub. L. 89–574, §4(a), Sept. 13, 1966, 80 Stat. 767; Pub. L. 90–495, §§4(a), 8, 15, Aug. 23, 1968, 82 Stat. 816, 819, 822; Pub. L. 91–605, title I, §§104(a), 106(a), 107, 117(d), 130, 141, Dec. 31, 1970, 84 Stat. 1714, 1716, 1718, 1724, 1732, 1737; Pub. L. 93–87, title I, §§105, 106(a), 107, 108, 152(1), Aug. 13, 1973, 87 Stat. 253–255, 276; Pub. L. 93–643, §102(b), Jan. 4, 1975, 88 Stat. 2281; Pub. L. 94–280, title I, §§107(a), 108, May 5, 1976, 90 Stat. 430, 431; Pub. L. 95–599, title I, §106, Nov. 6, 1978, 92 Stat. 2693; Pub. L. 97–424, title I, §§126(c), 159, Jan. 6, 1983, 96 Stat. 2115, 2135; Pub. L. 100–17, title I, §§102(b)(3), 108, 109, 133(b)(2), (3), Apr. 2, 1987, 101 Stat. 135, 146, 171; Pub. L. 101–427, Oct. 15, 1990, 104 Stat. 927; Pub. L. 102–240, title I, §§1001(g), 1005, 1006(g)(1), 1007(c), Dec. 18, 1991, 105 Stat. 1916, 1922, 1927, 1931; Pub. L. 104–59, title III, §§301(b), 311(b), Nov. 28, 1995, 109 Stat. 578, 583; Pub. L. 105–178, title I, §1201, June 9, 1998, 112 Stat. 164; Pub. L. 109–59, title I, §§1122, 1909(a), Aug. 10, 2005, 119 Stat. 1196, 1470; Pub. L. 110–244, title I, §101(h), June 6, 2008, 122 Stat. 1574.)

REFERENCES IN TEXT

Section 108(b) of the Federal-Aid Highway Act of 1956 (70 Stat. 374), referred to in subsec. (b)(2), is section 108(b) of act June 29, 1956, ch. 462, 70 Stat. 378, which is set out below.

AMENDMENTS

2008—Subsec. (a)(39). Pub. L. 110–244 added par. (39).

2005—Subsec. (a)(35). Pub. L. 109–59, §1122(a), amended heading and text of par. (35) generally, substituting introductory provisions and subpars. (A) to (L) defining ''Transportation enhancement activity'' for substantially identical undesignated provisions defining ''Transportation enhancement activities''.

Subsec. (a)(38). Pub. L. 109–59, §1122(b), added par. (38).

Subsec. (b). Pub. L. 109–59, §1909(a), inserted subsec. heading, substituted heading and text of par. (1) for first undesignated par. relating to declaration that it was in the national interest to accelerate the construction of the Federal-aid highway systems, designated second undesignated par. as par. (2), inserted heading, and substituted ''Congress declares that the prompt and early completion of the Dwight D. Eisenhower National System of Interstate and Defense Highways (referred to in this section as the 'Interstate System'), so named because of its primary importance to the national defense, is essential to the national interest'' for ''It is hereby declared that the prompt and early completion of The Dwight D. Eisenhower System of Interstate and Defense Highways, so named because of its primary importance to the national defense and hereafter referred to as the 'Interstate System', is essential to the national interest and is one of the most important objectives of this Act'', and substituted heading and text of par. (3) for third undesignated par. relating to the national policy that increased emphasis be

placed on the construction and reconstruction of the other Federal-aid systems.

1998—Subsec. (a). Pub. L. 105–178 inserted heading and amended text of subsec. (a) generally, alphabetizing, numbering, and inserting headings for terms defined, inserting definitions of ''maintenance area'' and ''refuge road'', and substituting definition of ''State transportation department'' for definition of ''State highway department''.

1995—Subsec. (a). Pub. L. 104–59, § 311(b), in first sentence of definition of ''construction'', inserted ''bond costs and other costs relating to the issuance in accordance with section 122 of bonds or other debt financing instruments,'' after ''highway, including''.

Pub. L. 104–59, § 301(b)(1), in definition of ''project'', inserted before period at end ''or any other undertaking eligible for assistance under this title''.

Pub. L. 104–59, § 301(b)(2), added provision defining ''operating costs for traffic monitoring, management, and control'' and struck out former provision defining ''startup costs for traffic management and control'' which read as follows: ''The term 'startup costs for traffic management and control' means initial costs (including labor costs, administration costs, cost of utilities, and rent) for integrated traffic control systems, incident management programs, and traffic control centers.''

1991—Subsec. (a). Pub. L. 102–240, § 1006(g)(1), added provision defining ''Federal-aid highways'' and struck out former provision which read as follows: ''The term 'Federal-aid highways' means highways located on one of the Federal-aid systems described in section 103 of this title.''

Pub. L. 102–240, § 1005(a), in definition of ''highway safety improvement project'', inserted ''installs priority control systems for emergency vehicles at signalized intersections'' after ''marking,''.

Pub. L. 102–240, § 1005(d)(3), in definition of ''Indian reservation roads'', struck out '', including roads on the Federal-aid systems,'' after ''public roads''.

Pub. L. 102–240, § 1005(d)(4), in definition of ''park road'', inserted '', including a bridge built primarily for pedestrian use, but with capacity for use by emergency vehicles'' before ''that is located''.

Pub. L. 102–240, § 1005(b), inserted provision defining ''urbanized area'' and struck out former provision which read as follows: ''The term 'urbanized area' means an area so designated by the Bureau of the Census, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall, as a minimum, encompass the entire urbanized area within a State as designated by the Bureau of the Census.''

Pub. L. 102–240, § 1005(c), inserted provision defining ''National Highway System'' and struck out former provision defining ''Federal-aid primary system'' which read as follows: ''The term 'Federal-aid primary system' means the Federal-aid highway system described in subsection (b) of section 103 of this title.''

Pub. L. 102–240, § 1005(d)(1), (2), struck out provisions defining ''Federal-aid secondary system'' and ''Federal-aid urban system'' which read as follows:

''The term 'Federal-aid secondary system' means the Federal-aid highway system described in subsection (c) of section 103 of this title.

''The term 'Federal-aid urban system' means the Federal-aid highway system described in subsection (d) of section 103 of this title.''

Pub. L. 102–240, § 1005(e), in definition of ''Interstate System'', inserted ''Dwight D. Eisenhower'' before ''National''.

Pub. L. 102–240, § 1005(g), inserted provisions defining ''start-up costs for traffic management and control'', ''carpool project'', ''public authority'' and ''public lands highway''.

Pub. L. 102–240, § 1005(f), inserted provision defining ''operational improvement''.

Pub. L. 102–240, § 1007(c), inserted provision defining ''transportation enhancement activities''.

Subsec. (b). Pub. L. 102–240, § 1001(g), substituted ''forty'' for ''thirty-seven'' and ''1996'' for ''1993'' in second par.

1990—Subsec. (b). Pub. L. 101–427 substituted ''The Dwight D. Eisenhower System of Interstate and Defense Highways'' for ''the National System of Interstate and Defense Highways'' in first two pars.

1987—Subsec. (a). Pub. L. 100–17, § 108, in definition of ''construction'', inserted ''elimination of roadside obstacles,'' after ''grade crossings,''.

Pub. L. 100–17, § 133(b)(2), substituted definition of ''forest road or trail'' for ''forest or trail''.

Pub. L. 100–17, § 109, in definition of ''highway safety improvement project'', inserted ''installs or replaces emergency motorist-aid call boxes,'' after ''pavement marking,''.

Pub. L. 100–17, § 133(b)(3), amended definition of ''park road'' generally. Prior to amendment, definition read as follows: ''The term 'park road' means a public road that is located within or provides access to an area in the national park system.''

Subsec. (b). Pub. L. 100–17, § 102(b)(3), substituted ''thirty-seven years'' '' for ''thirty-four years'' '' and ''1993'' for ''1990'' in second par.

1983—Subsec. (a). Pub. L. 97–424, § 126(c)(1), substituted provision that ''park road'' means a public road that is located within or provides access to an area in the national park system, for provision that ''park roads and trails'' means those roads or trails, including the necessary bridges, located in national parks or monuments, now or hereafter established, or in other areas administered by the National Park Service of the Department of the Interior (excluding parkways authorized by Acts of Congress) and also including approach roads to national parks or monuments authorized by the Act of January 31, 1931 (46 Stat. 1053), as amended.

Pub. L. 97–424, § 126(c)(2), substituted ''The term 'Indian reservation roads' means public roads, including roads'' for ''The term 'Indian reservation roads and bridges' means roads and bridges, including roads and bridges'' before ''on the Federal-aid systems''.

Pub. L. 97–424, § 126(c)(3), inserted provision defining ''Federal lands highways''.

Pub. L. 97–424, § 159, in definition of ''construction'', inserted provision that it also includes costs incurred by the State in performing Federal-aid project related audits which directly benefit the Federal-aid highway program.

1978—Subsec. (a). Pub. L. 95–599, § 106(a), in definition of ''construction'' inserted provision relating to capital improvements.

Pub. L. 95–599, § 106(b)(1), in definition of ''forest road or trail'', inserted provisions requiring contingency or service to the National Forest System and necessity for the protection, administration, and utilization thereof.

Pub. L. 95–599, § 106(b)(2), defined ''forest development roads or trails'' in terms of a forest road or trail under the jurisdiction of the Forest Service rather than in terms of a forest road or trail of primary importance for the protection, administration, and utilization of the national forest or other areas under the jurisdiction of the Forest Service.

Pub. L. 95–599, § 106(b)(3), defined ''forest highway'' in terms of a forest road under the jurisdiction of, and maintained by, a public authority and open to public travel rather than in terms of a forest road which is of primary importance to the States, counties, or communities contingent to national forests and which is a Federal-aid system.

Pub. L. 95–599, § 106(b)(4), inserted definition of ''highway safety improvement project''.

1976—Subsec. (a). Pub. L. 94–280, § 108, defined ''construction'' to include resurfacing, restoration, and rehabilitation and ''urban area'' to exclude cities in the States of Maine and New Hampshire and inserted definition of ''public road''.

Subsec. (b). Pub. L. 94–280, § 107(a), substituted provision for completion of the Interstate System over a thirty-four year period, through the fiscal year ending

September 30, 1990, for a prior provision for such completion over a twenty-three period, through the fiscal year ending June 30, 1979.

1975—Subsec. (a). Pub. L. 93–643 defined ''Indian reservation roads and bridges'' to include roads and bridges on the Federal-aid systems.

1973—Subsec. (a). Pub. L. 93–87, §105(1), in definition of ''construction'', substituted ''National Oceanic and Atmospheric Administration'' for ''Coast and Geodetic Survey'' and extended definition to include improvements which directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas.

Pub. L. 93–87, §105(3), in definition of ''Indian reservation roads and bridges'', substituted ''approval of the Federal Government, or Indian and Alaska Native villages, groups, or communities in which Indians and Alaskan Natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians'' for ''approval of the Federal Government on which Indians reside whom the Secretary of the Interior has determined to be eligible for services generally available to Indians under Federal laws specifically applicable to Indians''.

Pub. L. 93–87, §152(1), in definition of ''Secretary'', substituted ''Secretary of Transportation'' for ''Secretary of Commerce''.

Pub. L. 93–87, §105(4), in definition of ''urbanized area'', provided for boundaries of the ''urbanized area'' to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary, and required such boundaries, as a minimum, to encompass the entire urbanized area within a State as designated by the Bureau of the Census.

Pub. L. 93–87, §105(2), in definition of ''urban area'', substituted ''an urbanized area or, in the case of an urbanized area encompassing more than one State, that part of the urbanized area in each such State, or an urban place as designated by the Bureau of the Census having a population of five thousand or more and not within any urbanized area, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary'' for ''an area including and adjacent to a municipality or other urban place having a population of five thousand or more, as determined by the latest available Federal census, within boundaries to be fixed by a State highway department subject to the approval of the Secretary'', and required such boundaries, as a minimum, to encompass the entire urban place designated by the Bureau of the Census.

Subsec. (b). Pub. L. 93–87, §§106(a), 107, extended time for completion of the National System of Interstate and Defense Highways, substituting in second par. ''twenty-three years'' and ''June 30, 1979'' for ''twenty years'' and ''June 30, 1976'', and inserted third par. declaratory of national policy, since the Interstate System is now in the final phase of completion, that increased emphasis be placed on the construction and reconstruction of the other Federal-aid systems in accordance with the first par. of subsec. (b), in order to bring all of the Federal-aid systems up to standards and to increase the safety of these systems to the maximum extent.

Subsec. (e). Pub. L. 93–87, §108, added subsec. (e).

1970—Subsec. (a). Pub. L. 91–605, §§106(a), 117(d), 130, 141, inserted definitions of ''urbanized area'' and ''Federal-aid urban system'', substituted ''subsection (e)'' for ''subsection (d)'' in definition of ''Interstate System'', included within the costs of construction, under the definition of ''construction'', relocation assistance, acquisition of replacement housing sites, acquisition, and rehabilitation, relocation, and construction of replacement housing, and substituted ''acquisition'' for ''costs'' of rights-of-way, broadened definition of ''Indian reservation roads and bridges'' to include roads and bridges on State controlled Indian reservations, trust lands, and restricted Indian lands, a well as roads and bridges on such lands under Federal control, and inserted in definitions of ''forest highway'' and ''public lands highways'' provisions to ensure that these highways be on the Federal-aid systems.

Subsec. (b). Pub. L. 91–605, §104(a), substituted ''twenty years'' for ''eighteen years'' and ''June 30, 1976'' for ''June 30, 1974''.

Subsec. (c). Pub. L. 91–605, §107, substituted ''any officer or employee in the executive branch of the Federal Government'' for ''any officer or employee of any department, agency, or instrumentality of the executive branch of the Federal Government'' and ''Highway Trust Fund'' for ''highway trust fund''.

Subsec. (d). Pub. L. 91–605, §107, substituted provisions prohibiting expenditure of funds from the Highway Trust Fund by any department other than the Federal Highway Administration unless these funds are identified and included as a line item in an appropriation Act and are to meet obligations incurred under this title attributable to the construction of Federal aid highways or for planning, research, or development, or as otherwise specifically authorized to be appropriated from the Highway Trust Fund by Federal-aid highway legislation for provisions expressing essentially the same prohibitions but permitting expenditures to meet obligations incurred under this title attributable to Federal-aid highways, and contracted for in accordance with the Act of March 4, 1915, as amended [section 686 of Title 31, Money and Finance], relating to work or services not usually performed by the Federal Highway Administration, or relating to the furnishing of materials, supplies or equipment, and expenditures specifically identified in the budget and included in an appropriation Act.

1968—Subsec. (a). Pub. L. 90–495, §8, inserted ''and other areas administered by the Forest Service'' after ''national forests'' and ''national forest'' in definitions of ''forest road or trail'' and ''forest development roads and trails''.

Subsec. (b). Pub. L. 90–495, §4(a), substituted a reference to ''eighteen years' appropriation'' for reference to ''sixteen years' appropriation'' and substituted ''June 30, 1974'' for ''June 30, 1972''.

Subsecs. (c), (d). Pub. L. 90–495, §15, added subsecs. (c) and (d).

1966—Subsec. (b). Pub. L. 89–574 substituted a reference to ''sixteen years' appropriation'' for reference to ''fifteen years' appropriation'' and substituted ''June 30, 1972'' for ''June 30, 1971''.

1964—Subsec. (b). Pub. L. 88–423 substituted ''fifteen years'' for ''thirteen years'' and ''June 30, 1971'' for ''June 30, 1969''.

1962—Subsec. (a). Pub. L. 87–866 inserted definition of ''public lands development roads and trails''.

1960—Subsec. (a). Pub. L. 86–624 substituted ''fifty States, the District of Columbia, or Puerto Rico'' for ''forty-nine States, the District of Columbia, Hawaii, or Puerto Rico'' in definition of ''State''.

1959—Subsec. (a). Pub. L. 86–70 substituted ''forty-nine States, the District of Columbia, Hawaii'' for ''forty-eight States, the District of Columbia, Hawaii, Alaska'' in definition of ''State''.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–244, title I, §121(a), (b), June 6, 2008, 122 Stat. 1608, provided that:

''(a) IN GENERAL.—Except as otherwise provided in this Act (including subsection (b)), this Act [see Tables for classification] and the amendments made by this Act take effect on the date of enactment of this Act [June 6, 2008].

''(b) EXCEPTION.—

''(1) IN GENERAL.—The amendments made by this Act (other than the amendments made by sections 101(g), 101(m)(1)(H) [amending section 144 of this title, not Pub. L. 109–59], 103, 105, 109, and 201(*o*)) to the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59; 119 Stat. 1144) shall—

''(A) take effect as of the date of enactment of that Act [Aug. 10, 2005]; and

''(B) be treated as being included in that Act as of that date.

''(2) EFFECT OF AMENDMENTS.—Each provision of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59; 119 Stat. 1144) (including the amendments made by that Act) (as in effect on the day before the date of enactment of this Act [June 6, 2008]) that is amended by this Act (other than sections 101(g), 101(m)(1)(H), 103, 105, 109, and 201(*o*)) shall be treated as not being enacted.''

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–206, title IX, § 9016, July 22, 1998, 112 Stat. 868, provided that: ''This title [see Tables for classification] and the amendments made by this title shall take effect simultaneously with the enactment of the Transportation Equity Act for the 21st Century [Pub. L. 105–178]. For purposes of all Federal laws, the amendments made by this title shall be treated as being included in the Transportation Equity Act for the 21st Century at the time of the enactment of such Act [June 9, 1998], and the provisions of such Act (including the amendments made by such Act) (as in effect on the day before the date of enactment of this Act [July 22, 1998]) that are amended by this title shall be treated as not being enacted.''

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 147 of Pub. L. 91–605 provided that: ''The amendments made by section 117 [enacting section 510 of this title, amending this section, and renumbering sections 511 and 512 of this title], 120 [amending provisions set out as a note under section 502 of this title], and 137 of this Act [amending section 506 of this title] shall not take effect if before the effective date of this Act [Dec. 31, 1970] the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 has been enacted into law.'' The Uniform Relocation Assistance and Land Acquisition Policies Act of 1970, enacted as Pub. L. 91–646, 84 Stat. 1894, was approved Jan. 2, 1971, whereas this Act (Title I of Pub. L. 91–605) was approved Dec. 31, 1970, therefore the amendments made by sections 117, 120, and 137 of Title I of Pub. L. 91–605 took effect.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 37 of Pub. L. 90–495, as amended by Pub. L. 91–605, title I, § 120, Dec. 31, 1970, 84 Stat. 1725, provided that:

''(a) Except as otherwise provided in subsection (b) of this section, this Act and the amendments made by this Act [enacting sections 135, 139, 140, 141, and 501 to 511 of this title, amending this section, sections 103, 104, 108, 112, 113, 115, 116, 120, 125, 128, 129, 131, 135, 136, 138, 205, 319, and 402 of this title, section 636 of Title 15, Commerce and Trade, and section 1653 of former Title 49, Transportation, repealing section 133 of this title, enacting provisions set out as notes under this section and sections 104, 108, 125, 134, 501, 502, and 510 of this title] shall take effect on the date of its enactment [Aug. 23, 1968], except that until July 1, 1970, sections 502, 505, 506, 507, and 508 of title 23, United States Code, as added by this Act, shall be applicable to a State only to the extent that such State is able under its laws to comply with such sections. Except as otherwise provided in subsection (b) of this section, after July 1, 1970, such sections shall be completely applicable to all States. Section 133 of title 23, United States Code, shall not apply to any State if sections 502, 505, 506, 507, and 508 of title 23, United States Code, are applicable in that State, and effective July 1, 1970, such section 133 is repealed.

''(b) In the case of any State (1) which is required to amend its constitution to comply with sections 502, 505, 506, 507, and 508 of title 23, United States Code, and (2) which cannot submit the required constitutional amendment for ratification prior to July 1, 1970, the date of July 1, 1970, contained in subsection (a) of this section shall be extended to July 1, 1972.''

EFFECTIVE DATE OF 1959 AMENDMENT

Section 21(e) of Pub. L. 86–70 provided that the amendments made by that section (amending this section and sections 104, 116, and 120 of this title) are effective July 1, 1959.

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–244, § 1(a), June 6, 2008, 122 Stat. 1572, provided that: ''This Act [see Tables for classification] may be cited as the 'SAFETEA–LU Technical Corrections Act of 2008'.''

SHORT TITLE OF 2005 AMENDMENTS

Pub. L. 109–59, § 1(a), Aug. 10, 2005, 119 Stat. 1144, provided that: ''This Act [see Tables for classification] may be cited as the 'Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users' or 'SAFETEA–LU'.''

Pub. L. 109–42, § 1, July 30, 2005, 119 Stat. 435, provided that: ''This Act [amending section 9503 and 9504 of Title 26, Internal Revenue Code, and section 5338 of Title 49, Transportation, enacting provisions set out as a note under section 9503 of Title 26, and amending provisions set out as a note under section 104 of this title] may be cited as the 'Surface Transportation Extension Act of 2005, Part VI'.''

Pub. L. 109–40, § 1, July 28, 2005, 119 Stat. 410, provided that: ''This Act [amending sections 144, 157, 163, and 188 of this title, section 777c of Title 16, Conservation, sections 9503 and 9504 of Title 26, Internal Revenue Code, section 13106 of Title 46, Shipping, and sections 5307, 5309, 5338, 31104, and 31107 of Title 49, Transportation, enacting provisions set out as a note under section 9503 of Title 26, and amending provisions set out as notes under this section, sections 104, 322, and 402 of this title, and sections 5307, 5309, 5310, and 5338 of Title 49] may be cited as the 'Surface Transportation Extension Act of 2005, Part V'.''

Pub. L. 109–37, § 1, July 22, 2005, 119 Stat. 394, provided that: ''This Act [amending sections 144, 157, 163, and 188 of this title, section 777c of Title 16, Conservation, sections 9503 and 9504 of Title 26, Internal Revenue Code, section 13106 of Title 46, Shipping, and sections 5307, 5309, 5338, 31104, and 31107 of Title 49, Transportation, enacting provisions set out as a note under section 9503 of Title 26, and amending provisions set out as notes under this section, sections 104, 322, and 402 of this title, and sections 5307, 5309, 5310, and 5338 of Title 49] may be cited as the 'Surface Transportation Extension Act of 2005, Part IV'.''

Pub. L. 109–35, § 1, July 20, 2005, 119 Stat. 379, provided that: ''This Act [amending sections 144, 157, 163, and 188 of this title, section 777c of Title 16, Conservation, sections 9503 and 9504 of Title 26, Internal Revenue Code, section 13106 of Title 46, Shipping, and sections 5307, 5309, 5338, 31104, and 31107 of Title 49, Transportation, enacting provisions set out as a note under section 9503 of Title 26, and amending provisions set out as notes under this section, sections 104, 322, and 402 of this title, and sections 5307, 5309, 5310, and 5338 of Title 49] may be cited as the 'Surface Transportation Extension Act of 2005, Part III'.''

Pub. L. 109–20, § 1, July 1, 2005, 119 Stat. 346, provided that: ''This Act [amending sections 144, 157, 163, and 188 of this title, section 777c of Title 16, Conservation, sections 9503 and 9504 of Title 26, Internal Revenue Code, section 13106 of Title 46, Shipping, and sections 5307, 5309, 5338, 31104, and 31107 of Title 49, Transportation,

enacting provisions set out as a note under section 9503 of Title 26, and amending provisions set out as notes under this section, sections 104, 322, and 402 of this title, and sections 5307, 5309, 5310, and 5338 of Title 49] may be cited as the 'Surface Transportation Extension Act of 2005, Part II'.''

Pub. L. 109–14, §1, May 31, 2005, 119 Stat. 324, provided that: ''This Act [amending sections 144, 157, 163, and 188 of this title, section 777c of Title 16, Conservation, sections 4481 to 4483, 9503, and 9504 of Title 26, Internal Revenue Code, section 13106 of Title 46, Shipping, and sections 5307, 5309, 5338, 31104, and 31107 of Title 49, Transportation, enacting provisions set out as notes under this section and section 4481 of Title 26, and amending provisions set out as notes under this section, sections 104, 322, and 402 of this title, and sections 5307, 5309, 5310, and 5338 of Title 49] may be cited as the 'Surface Transportation Extension Act of 2005'.''

SHORT TITLE OF 2004 AMENDMENTS

Pub. L. 108–310, §1, Sept. 30, 2004, 118 Stat. 1144, provided that: ''This Act [amending sections 144, 157, 163, 188, and 410 of this title, sections 900 and 901 of Title 2, The Congress, section 777c of Title 16, Conservation, sections 9503 and 9504 of Title 26, Internal Revenue Code, section 13106 of Title 46, Shipping, and sections 5307, 5309, 5338, 31104, and 31107 of Title 49, Transportation, enacting provisions set out as notes under this section, section 104 of this title, section 9503 of Title 26, and section 5337 of Title 49, amending provisions set out as notes under this section, sections 104, 322, and 402 of this title, section 901 of Title 2, and sections 5307, 5309, 5310, and 5338 of Title 49, and repealing provisions set out as a note under section 9503 of Title 26] may be cited as the 'Surface Transportation Extension Act of 2004, Part V'.''

Pub. L. 108–280, §1, July 30, 2004, 118 Stat. 876, provided that: ''This Act [amending sections 144, 157, 163, and 188 of this title, section 777c of Title 16, Conservation, sections 9503 and 9504 of Title 26, Internal Revenue Code, section 13106 of Title 46, Shipping, and sections 5307, 5309, 5338, 31104, and 31107 of Title 49, Transportation, enacting provisions set out as notes under section 9503 of Title 26, amending provisions set out as notes under this section, sections 104, 322, and 402 of this title, and sections 5307, 5309, 5310, and 5338 of Title 49, and repealing provisions set out as a note under section 5337 of Title 49] may be cited as the 'Surface Transportation Extension Act of 2004, Part IV'.''

Pub. L. 108–263, §1, June 30, 2004, 118 Stat. 698, provided that: ''This Act [amending sections 144, 157, 163, and 188 of this title, section 777c of Title 16, Conservation, sections 9503 and 9504 of Title 26, Internal Revenue Code, section 13106 of Title 46, Shipping, and sections 5307, 5309, 5338, 31104, and 31107 of Title 49, Transportation, enacting provisions set out as a note under section 9503 of Title 26, and amending provisions set out as notes under this section, sections 104, 322, and 402 of this title, and sections 5307, 5309, 5310, 5337, and 5338 of Title 49] may be cited as the 'Surface Transportation Extension Act of 2004, Part III'.''

Pub. L. 108–224, §1, Apr. 30, 2004, 118 Stat. 627, provided that: ''This Act [amending sections 144, 157, 163, and 188 of this title, section 777c of Title 16, Conservation, sections 9503 and 9504 of Title 26, Internal Revenue Code, section 13106 of Title 46, Shipping, and sections 5307, 5309, 5338, 31104, and 31107 of Title 49, Transportation, enacting provisions set out as a note under section 9503 of Title 26, and amending provisions set out as notes under this section, sections 104, 322, and 402 of this title, and sections 5307, 5309, 5310, 5337, and 5338 of Title 49] may be cited as the 'Surface Transportation Extension Act of 2004, Part II'.''

Pub. L. 108–202, §1, Feb. 29, 2004, 118 Stat. 478, provided that: ''This Act [amending sections 144, 157, 163, and 188 of this title, section 777c of Title 16, Conservation, sections 9503 and 9504 of Title 26, Internal Revenue Code, section 13106 of Title 46, Shipping, and sections 5307, 5309, 5338, 31104, and 31107 of Title 49, Transportation, enacting provisions set out as a note under section 9503 of Title 26, and amending provisions set out as notes under this section, sections 104, 322, and 402 of this title, and sections 5307, 5309, 5310, 5337, and 5338 of Title 49] may be cited as the 'Surface Transportation Extension Act of 2004'.''

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–88, §1, Sept. 30, 2003, 117 Stat. 1110, provided that: ''This Act [amending sections 144, 157, 163, 188, and 410 of this title, sections 900 and 901 of Title 2, The Congress, section 777c of Title 16, Conservation, sections 9503 and 9504 of Title 26, Internal Revenue Code, section 13106 of Title 46, Shipping, and sections 5307, 5309, 5337, 5338, 31104, and 31107 of Title 49, Transportation, enacting provisions set out as notes under this section, section 104 of this title, section 9503 of Title 26, and section 5337 of Title 49, and amending provisions set out as notes under this section, sections 322 and 402 of this title, section 901 of Title 2, and sections 5309, 5310, and 5338 of Title 49] may be cited as the 'Surface Transportation Extension Act of 2003'.''

SHORT TITLE OF 1998 AMENDMENTS

Pub. L. 105–206, title IX, §9001, July 22, 1998, 112 Stat. 834, provided that: ''This title [see Tables for classification] may be cited as the 'TEA 21 Restoration Act'.''

Pub. L. 105–178, §1(a), June 9, 1998, 112 Stat. 107, provided that: ''This Act [see Tables for classification] may be cited as the 'Transportation Equity Act for the 21st Century'.''

Pub. L. 105–178, title I, §1501, June 9, 1998, 112 Stat. 241, provided that: ''This chapter [chapter 1 (§§1501–1504) of subtitle E of title I of Pub. L. 105–178, enacting subchapter II of this chapter, amending section 301 of Title 49, Transportation, and enacting provisions set out as a note under section 181 of this title] may be cited as the 'Transportation Infrastructure Finance and Innovation Act of 1998'.''

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–130, §1, Dec. 1, 1997, 111 Stat. 2552, provided that: ''This Act [amending sections 104, 321, 326, and 410 of this title, sections 9503, 9504, and 9511 of Title 26, Internal Revenue Code, and sections 111, 5309, 5337, 5338, 30308, and 31104 of Title 49, Transportation, enacting provisions set out as notes under section 104 of this title and section 9503 of Title 26, and amending provisions set out as notes under this section and section 307 of this title] may be cited as the 'Surface Transportation Extension Act of 1997'.''

SHORT TITLE OF 1995 AMENDMENT

Section 1(a) of Pub. L. 104–59 provided that: ''This Act [enacting section 161 of this title, amending this section, sections 103, 104, 106, 109, 111, 112, 115, 116, 120, 122, 127, 129, 130, 131, 133, 134, 141, 144, 149, 152, 153, 217, 303, 306, 307, 323, 409, and 410 of this title, sections 1261 and 1262 of Title 16, Conservation, sections 7506 and 12186 of Title 42, The Public Health and Welfare, and sections 5316, 5331, 20140, 30308, 31112, 31136, 31306, and 45102 of Title 49, Transportation, repealing section 154 of this title, enacting provisions set out as notes preceding section 101 of this title and under this section, sections 104, 109, 130, 141, 153, 154, 307, 309, 401, and 408 of this title, section 403 of Title 16, section 7511a of Title 42, and section 31136 of Title 49, amending provisions set out as notes under this section and sections 104, 109, 127, 149, and 307 of this title, and repealing provisions set out as notes preceding section 101 of this title and under section 112 of this title] may be cited as the 'National Highway System Designation Act of 1995'.''

SHORT TITLE OF 1987 AMENDMENT

Section 1(a) of Pub. L. 100–17 provided that: ''This Act [enacting sections 151, 156, and 409 of this title, section 508 of Title 33, Navigation and Navigable Waters, section 4604 of Title 42, The Public Health and Welfare, and sections 1607a–2, 1619, 1620, and 1621 of former Title 49, Transportation, amending this section, sections 103,

104, 106, 109, 111, 112, 113, 114, 115, 116, 118, 119, 120, 121, 122, 123, 125, 127, 129, 130, 138, 140, 144, 152, 154, 157, 204, 210, 215, 217, 307, 315, 319, 321, 323, 401, 402, and 408 of this title, section 460*l*–11 of Title 16, Conservation, section 1761 of Title 18, Crimes and Criminal Procedure, sections 4041, 4051, 4052, 4071, 4081, 4221, 4481, 4482, 4483, 6156, 6412, 6420, 6421, 6427, and 9503 of Title 26, Internal Revenue Code, sections 494 and 1414 of Title 33, sections 4601, 4621, 4622, 4623, 4624, 4625, 4626, 4630, 4631, 4633, 4636, 4638, 4651, and 4655 of Title 42, sections 303 and 10922 of Title 49, and sections 1602, 1603, 1604, 1607, 1607a, 1607a–1, 1607c, 1608, 1612, 1613, 1614, 1617, 1655, 2311, 2314, and 2716 of former Title 49, repealing sections 211, 213, 219, and 322 of this title, sections 498a, 498b, 503 to 507, 526, 526a, 529, and 535d of Title 33, and sections 4634 and 4637 of Title 42, enacting provisions set out as notes under this section, sections 103, 104, 116, 120, 125, 127, 130, 144, 202, 307, 401, and 402 of this title, sections 1, 4052, and 4481 of Title 26, section 4601 of Title 42, section 10922 of Title 49, and sections 1601, 1602, 1608, and 2204 of former Title 49, amending provisions set out as notes under this section and sections 103, 104, 130, 141, 144, 146, and 401 of this title, and repealing provisions set out as notes under sections 114, 130, and 217 of this title and section 526a of Title 33] may be cited as the 'Surface Transportation and Uniform Relocation Assistance Act of 1987'.''

Section 101 of title I of Pub. L. 100–17 provided that: ''This title [enacting sections 151, 156, and 409 of this title and section 508 of Title 33, Navigation and Navigable Waters, amending this section, sections 103, 104, 106, 109, 111, 112, 113, 114, 115, 116, 118, 119, 120, 121, 122, 123, 125, 127, 129, 130, 138, 140, 144, 152, 154, 157, 204, 210, 215, 217, 307, 315, 319, 321, 323, 401, and 402 of this title, section 1761 of Title 18, Crimes and Criminal Procedure, sections 494 and 1414 of Title 33, section 303 of Title 49, Transportation, and sections 1655, 2311, and 2716 of former Title 49, repealing sections 211, 213, 219, and 322 of this title and sections 498a, 498b, 503 to 507, 526, 526a, 529, and 535d of Title 33, enacting provisions set out as notes under this section and sections 103, 104, 116, 120, 125, 127, 130, 144, 202, 307, and 402 of this title, amending provisions set out as notes under this section and sections 103, 104, 130, 141, 144, and 146 of this title, and repealing provisions set out as notes under sections 114, 130, and 217 of this title and section 526a of Title 33] may be cited as the 'Federal-Aid Highway Act of 1987'.''

SHORT TITLE OF 1983 AMENDMENTS

Section 1 of Pub. L. 97–424 provided: ''That this Act [enacting section 157 of this title, sections 4051 to 4053 and 9503 of Title 26, Internal Revenue Code, and sections 1601c, 1607a, 1607a–1, 1617, 1618, and 2301 to 2315 of former Title 49, Transportation, amending section 713c–3 of Title 15, Commerce and Trade, sections 460*l*–11 and 1606a of Title 16, Conservation, sections 101, 101 notes, 103, 103 note, 105, 109, 112, 113, 114, 115, 116, 118, 119, 120, 122, 125, 127, 130 notes, 137, 139, 140, 141, 142, 144, 150, 152, 201, 202, 203, 204, 210, 214, 217, 218, 307, 307 note, 401 note, and 402 of this title, sections 39, 44E, 46, 48, 103, 165 note, 167, 168, 274, 851, 852, 874, 882, 3304 note, 3454, 4041, 4061, 4063, 4071, 4081, 4101, 4102, 4221, 4222, 4481, 4482, 4483, 6049, 6156, 6201, 6206, 6362, 6412, 6416, 6420, 6421, 6427, 6504, 6675, 7210, 7603, 7604, 7605, 7609, 7610, and 9502 of Title 26, section 1414 of Title 33, Navigation and Navigable Waters, sections 602 and 1382a of Title 42, The Public Health and Welfare, sections 1474, 1475, and 1479 of former Title 46, Shipping, section 1273 of Title 46, Appendix, sections 10927 note, 11909 and 11914 of Title 49, and sections 1602, 1603, 1604, 1607c, 1608, 1611, 1612, 1614, 2204, 2205, 2206 of former Title 49, repealing sections 101 notes, 104 note, and 206 to 209 of this title, sections 120 note, 4091 to 4094, and 6424 of Title 26, and sections 1602 note, 1604a, 1617, and 1618 of former Title 49, and enacting provisions set out as notes under this section, sections 103, 104, 105, 109, 111, 119, 120, 125, 144, 146, 154, 307, 401, and 408 of this title, section 713c–3 of Title 15, sections 1, 39, 46, 165, 274, 3304, 4041, 4051, 4061, 4071, 4081, 4481, 6012, 6427, and 9503 of Title 26, section 602 of Title 42, and sections 1601, 1612, and 2315 of former Title 49] may be cited as the 'Surface Transportation Assistance Act of 1982'.''

Section 101 of title I of Pub. L. 97–424 provided that: ''This title [enacting section 157 of this title, amending this section and sections 103, 105, 109, 112, 113, 114, 115, 116, 118, 119, 120, 122, 125, 127, 137, 139, 140, 142, 144, 150, 152, 201, 202, 203, 204, 210, 214, 217, 218, and 307 of this title, repealing sections 101 notes, 104 note, and 206 to 209 of this title, and enacting provisions set out as notes under this section, sections 103, 104, 105, 109, 111, 119, 120, 125, 144, and 146 of this title, and section 2315 of former Title 49, Transportation] may be cited as the 'Highway Improvement Act of 1982'.''

Section 1 of Pub. L. 97–327, Oct. 15, 1982, 96 Stat. 1611, provided: ''That this Act [amending section 144 of this title, provisions set out as notes under this section and section 130 of this title, and enacting provisions set out as notes under section 104 of this title] may be cited as the 'Federal-Aid Highway Act of 1982'.''

SHORT TITLE OF 1981 AMENDMENT

Pub. L. 97–134, § 13, Dec. 29, 1981, 95 Stat. 1703, provided that: ''This Act [amending sections 104, 119, and 139 of this title and enacting provisions set out as notes under this section and section 104 of this title] may be cited as the 'Federal-Aid Highway Act of 1981'.''

SHORT TITLE OF 1978 AMENDMENT

Section 1 of Pub. L. 95–599 provided: ''That this Act [enacting sections 119, 146, and 407 of this title, and sections 1602–1, 1607, 1614, 1615, 1616, 1617 and 1618 of former Title 49, Transportation, amending this section, sections 103, 104, 105, 109, 111, 116, 118, 120, 122, 124, 125, 129, 131, 134, 141, 144, 148, 151, 152, 154, 155, 215, 217, 219, 320, 402, and 406 of this title, section 1418 of Title 15, Commerce and Trade, section 460*l*–11 of Title 16, Conservation, sections 39, 4041, 4061, 4071, 4081, 4481, 4482, 6156, 6412, 6421, 6427, 7210, 7603, 7604, 7605, 7609, and 7610 of Title 26, Internal Revenue Code, section 201 of former Title 40, Appendix, Public Buildings, Property, and Works, sections 303, 1602, 1603, 1604, 1607b, 1607c, 1608, 1611, 1612, and 1613 of former Title 49, repealing section 153 of this title and sections 1607, 1607a, and 1614 of former Title 49, and enacting provisions set out as notes under this section, sections 103, 104, 109, 111, 120, 122, 124, 129, 130, 134, 135, 141, 142, 144, 146, 215, 217, 307, 320, 401, 402, and 403 of this title, section 6427 of Title 26, section 201 of former Title 40, Appendix, section 5904 of Title 42, The Public Health and Welfare, section 883 of Title 46, Appendix, Shipping, and sections 1601, 1602, 1604, 1605, 1612, and 1653 of former Title 49] may be cited as the 'Surface Transportation Assistance Act of 1978'.''

Section 101 of title I of Pub. L. 95–599 provided that: ''This title [enacting sections 119 and 146 of this title, amending this section, sections 103, 104, 105, 109, 111, 116, 118, 120, 122, 124, 125, 129, 131, 134, 141, 144, 148, 151, 152, 155, 203, 215, 217, 219, 320, and 406 of this title, and section 201 of former Title 40, Appendix, Public Buildings, Property and Works, repealing section 153 of this title and provisions set out as notes under this section and section 1605 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under this section, sections 103, 104, 109, 111, 120, 122, 124, 129, 130, 134, 135, 141, 142, 144, 146, 217, 307, and 320 of this title, section 201 of former Title 40, Appendix, section 5904 of Title 42, section 883 of Title 46, Appendix, Shipping, and section 1653 of former Title 49, Transportation] may be cited as the 'Federal-Aid Highway Act of 1978'.''

Section 501 of Pub. L. 95–599 provided that: ''This title [amending section 4601–11 of Title 16, Conservation, sections 39, 4041, 4061, 4071, 4081, 4481, 4482, 6156, 6412, 6421, 6427, 7210, 7603, 7604, and 7605 of Title 26, Internal Revenue Code, and enacting provisions set out as notes under sections 120 and 307 of this title and section 6427 of Title 26] may be cited as the 'Highway Revenue Act of 1978'.''

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94–280, title I, § 101, May 5, 1976, 90 Stat. 425, provided that: ''This title [enacting section 156 of this

title, amending this section and sections 103, 104, 106, 108, 117, 118, 121, 125, 127, 129, 131, 135, 138 to 140, 142, 147, 152, 153, 202, 203, 217, 219, 319, and 320 of this title, repealing sections 146 and 405 of this title, enacting provisions set out as notes under this section, sections 103, 104, 124, 134, 135, 215, 218, 319, and 320 of this title, and section 1605 of former Title 49, Transportation, and amending provisions set out as notes under this section, sections 120, 130, and 142 of this title, and section 1605 of former Title 49] may be cited as the 'Federal-Aid Highway Act of 1976'.''

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93–643, §1, Jan. 4, 1975, 88 Stat. 2281, provided: ''That this Act [enacting sections 141, 154, 155, 219, and 406, amending this section and sections 103, 115, 127, 129, 131, 136, 144, 208, 320, 322, 323, and 405, enacting provisions set out as notes under this section, sections 142, 217, and 320, amending provisions set out as notes under this section and sections 130 and 142, and repealing provisions set out as a note under this section] may be cited as the 'Federal-Aid Highway Amendments of 1974'.''

SHORT TITLE OF 1973 AMENDMENT

Pub. L. 93–87, title I, §101, Aug. 13, 1973, 87 Stat. 250, provided that: ''This title [enacting sections 145 to 150, 217, 218, 323, and 324 of this title and section 1602a of former Title 49, Transportation, amending this section and sections 103 to 105, 108, 109, 114, 117, 121, 126, 129, 135, 140, 142, 143, 149, 207, 303, 307 to 310, 312, 314, and 320 of this title, and enacting provisions set out as notes under this section, sections 103, 104, 120, 130, 142, 218, 307, 319, and 320 of this title, and sections 1608 and 1637 of former Title 49] may be cited as the 'Federal-Aid Highway Act of 1973'.''

SHORT TITLE OF 1970 AMENDMENT

Pub. L. 91–605, title I, §101, Dec. 31, 1970, 84 Stat. 1713, provided that: ''This title [enacting sections 142, 143, 215, 216, 321, and 510 of this title, amending this section and sections 103, 104, 105, 106, 109, 120, 125, 128, 129, 131, 134, 135, 136, 139, 140, 303, 307, 320, 506, 511, 512 of this title and section 517 of Title 33, Navigation and Navigable Waters, and enacting provisions set out as notes under this section and sections 104, 120, 129, 131, 134, 215, 216, 303, 307, 320, and 510 of this title] may be cited as the 'Federal-Aid Highway Act of 1970'.''

SHORT TITLE OF 1968 AMENDMENT

Pub. L. 90–495, §1, Aug. 23, 1968, 82 Stat. 815, provided that: ''This Act [enacting sections 135, 139, 140, and 141 of this title, amending this section, sections 103, 104, 108, 112, 113, 115, 116, 120, 125, 128, 129, 131, 135, 136, 138, 205, 319, 402, and 501 to 512 of this title, section 636 of Title 15, Commerce and Trade, section 1653 of former Title 49, Transportation, and provisions set out as a note under this section, repealing section 133 of this title and enacting provisions formerly set out as notes under this section and sections 104, 108, 125, 134, 501, 502, and 510 of this title] may be cited as the 'Federal-Aid Highway Act of 1968'.''

SHORT TITLE OF 1966 AMENDMENT

Pub. L. 89–574, §1, Sept. 13, 1966, 80 Stat. 766, provided that: ''This Act [enacting sections 120 and 138 of this title, amending this section and sections 104, 109, 118, 120, 125, 131, 136, 302, and 319 of this title, and enacting provisions set out as notes under this section and sections 106, 108, 125, 133, and 137 of this title] may be cited as the 'Federal-Aid Highway Act of 1966'.''

SHORT TITLE OF 1965 AMENDMENT

Pub. L. 89–285, §403, Oct. 22, 1965, 79 Stat. 1033, provided that: ''This Act [enacting sections 136 of this title and provisions set out as notes under sections 131 and 135 of this title and amending sections 131 and 319 of this title] may be cited as the 'Highway Beautification Act of 1965'.''

SHORT TITLE OF 1964 AMENDMENT

Pub. L. 88–423 §1, Aug. 13, 1964, 78 Stat. 397, provided that: ''This Act [amending this section and sections 104, 205, 209, and 320 of this title] may be cited as the 'Federal-Aid Highway Act of 1964'.''

SHORT TITLE OF 1963 AMENDMENT

Pub. L. 88–157, §1, Oct. 24, 1963, 77 Stat. 276, provided: ''That this Act [amending sections 104, 106, 109, 121, 131, and 307 of this title] may be cited as the 'Federal-Aid Highway Amendments Act of 1963'.''

SHORT TITLE OF 1962 AMENDMENT

Pub. L. 87–866, §1, Oct. 23, 1962, 76 Stat. 1145, provided that: ''This Act [enacting sections 133, 134 and 214 of this title, amending this section and sections 103, 104, 203, and 307 of this title, and enacting provisions set out as a note under section 307 of this title] may be cited as the 'Federal-Aid Highway Act of 1962'.''

SHORT TITLE OF 1961 AMENDMENT

Pub. L. 87–61, title I, §101, June 29, 1961, 75 Stat. 122, provided that: ''This Act [enacting section 6156 of Title 26, Internal Revenue Code, amending sections 111, 131 and 210 of this title and sections 4041, 4061, 4071, 4081, 4218, 4221, 4226, 4481, 4482, 6412, 6416, 6421, and 6601 of Title 26, enacting provisions set out as notes under this section and section 104 of this title and under section 4041 of Title 26, and amending provisions set out as notes under this section and section 120 of this title] may be cited as the 'Federal-Aid Highway Act of 1961'.''

SHORT TITLE OF 1960 AMENDMENT

Pub. L. 86–657, §1, July 14, 1960, 74 Stat. 522, provided that: ''This Act [enacting section 132 of this title and amending sections 104, 114, 120, 129, 203, 205, 210, and 305 of this title] may be cited as the 'Federal Highway Act of 1960'.''

SHORT TITLE OF 1959 AMENDMENT

Pub. L. 86–342, title I, §101, Sept. 21, 1959, 73 Stat. 611, provided that: ''This Act [amending sections 125, 131, 137, and 320 of this title, and sections 4041, 4081, 4082, 4226, 6412, 6416, and 6421 of Title 26, Internal Revenue Code, enacting notes set out under section 307 of this title and section 4082 of Title 26, and amending notes set out under this section and sections 104 and 120 of this title] may be cited as the 'Federal-Aid Highway Act of 1959'.''

SEPARABILITY

Section 36 of Pub. L. 90–495 provided that: ''If any provision of this Act (including the amendments made by this Act) [enacting sections 135, 139, 140, 141, and 501–511 of this title, amending this section, sections 103, 104, 108, 112, 113, 115, 116, 120, 125, 128, 129, 131, 135, 136, 138, 205, 319, and 402 of this title, section 636 of Title 15, Commerce and Trade, section 1653 of former Title 49, Transportation, and provisions set out as a note under this section, repealing section 133 of this title, and enacting provisions set out as notes under this section and sections 104, 108, 125, 134, 501, 502, and 510 of this title] or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of the provision to other persons or circumstances shall not be affected thereby.''

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of Commerce and other officers and offices of Department of

Commerce under this title and under specific related laws and parts of laws set out in the notes in this title relating generally to highways and highway and traffic safety transferred to and vested in Secretary of Transportation by Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created Department of Transportation. See section 102 of Title 49, Transportation, and Pub. L. 97–449, § 2, Jan. 12, 1983, 96 Stat. 2439.

PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE

Pub. L. 109–59, title I, § 1301, Aug. 10, 2005, 119 Stat. 1198, as amended by Pub. L. 110–244, title I, § 103(a), June 6, 2008, 122 Stat. 1578, provided that:

''(a) FINDINGS.—Congress finds the following:

''(1) Under current law, surface transportation programs rely primarily on formula capital apportionments to States.

''(2) Despite the significant increase for surface transportation program funding in the Transportation Equity Act of the 21st Century [Pub. L. 105–178, see Tables for classification], current levels of investment are insufficient to fund critical high-cost transportation infrastructure facilities that address critical national economic and transportation needs.

''(3) Critical high-cost transportation infrastructure facilities often include multiple levels of government, agencies, modes of transportation, and transportation goals and planning processes that are not easily addressed or funded within existing surface transportation program categories.

''(4) Projects of national and regional significance have national and regional benefits, including improving economic productivity by facilitating international trade, relieving congestion, and improving transportation safety by facilitating passenger and freight movement.

''(5) The benefits of projects described in paragraph (4) accrue to local areas, States, and the Nation as a result of the effect such projects have on the national transportation system.

''(6) A program dedicated to constructing projects of national and regional significance is necessary to improve the safe, secure, and efficient movement of people and goods throughout the United States and improve the health and welfare of the national economy.

''(b) ESTABLISHMENT OF PROGRAM.—The Secretary [of Transportation] shall establish a program to provide grants to States for projects of national and regional significance.

''(c) DEFINITIONS.—In this section, the following definitions apply:

''(1) ELIGIBLE PROJECT COSTS.—The term 'eligible project costs' means the costs of—

''(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities; and

''(B) construction, reconstruction, rehabilitation, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, acquisition of equipment, and operational improvements.

''(2) ELIGIBLE PROJECT.—The term 'eligible project' means any surface transportation project eligible for Federal assistance under title 23, United States Code, including freight railroad projects and activities eligible under such title.

''(3) STATE.—The term 'State' has the meaning such term has in section 101(a) of title 23, United States Code.

''(d) ELIGIBILITY.—To be eligible for assistance under this section, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

''(1) $500,000,000; or

''(2) 75 percent of the amount of Federal highway assistance funds apportioned for the most recently completed fiscal year to the State in which the project is located.

''(e) APPLICATIONS.—Each State seeking to receive a grant under this section for an eligible project shall submit to the Secretary [of Transportation] an application in such form and in accordance with such requirements as the Secretary shall establish.

''(f) COMPETITIVE GRANT SELECTION AND CRITERIA FOR GRANTS.—

''(1) IN GENERAL.—The Secretary [of Transportation] shall—

''(A) establish criteria for selecting among projects that meet the eligibility criteria specified in subsection (d);

''(B) conduct a national solicitation for applications; and

''(C) award grants on a competitive basis.

''(2) CRITERIA FOR GRANTS.—The Secretary may approve a grant under this section for a project only if the Secretary determines that the project—

''(A) is based on the results of preliminary engineering;

''(B) is justified based on the ability of the project—

''(i) to generate national economic benefits, including creating jobs, expanding business opportunities, and impacting the gross domestic product;

''(ii) to reduce congestion, including impacts in the State, region, and Nation;

''(iii) to improve transportation safety, including reducing transportation accidents, injuries, and fatalities;

''(iv) to otherwise enhance the national transportation system; and

''(v) to garner support for non-Federal financial commitments and provide evidence of stable and dependable financing sources to construct, maintain, and operate the infrastructure facility; and

''(C) is supported by an acceptable degree of non-Federal financial commitments, including evidence of stable and dependable financing sources to construct, maintain, and operate the infrastructure facility.

''(3) SELECTION CONSIDERATIONS.—In selecting a project under this section, the Secretary shall consider the extent to which the project—

''(A) leverages Federal investment by encouraging non-Federal contributions to the project, including contributions from public-private partnerships;

''(B) uses new technologies, including intelligent transportation systems, that enhance the efficiency of the project; and

''(C) helps maintain or protect the environment.

''(4) PRELIMINARY ENGINEERING.—In evaluating a project under paragraph (2)(A), the Secretary shall analyze and consider the results of preliminary engineering for the project.

''(5) NON-FEDERAL FINANCIAL COMMITMENT.—

''(A) EVALUATION OF PROJECT.—In evaluating a project under paragraph (2)(C), the Secretary shall require that—

''(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases; and

''(ii) each proposed non-Federal source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

''(B) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of non-Federal financing under subparagraph (A), the Secretary shall consider—

''(i) existing financial commitments;

''(ii) the degree to which financing sources are dedicated to the purposes proposed;

''(iii) any debt obligation that exists or is proposed by the recipient for the proposed project; and

''(iv) the extent to which the project has a non-Federal financial commitment that exceeds the required non-Federal share of the cost of the project.

''(6) REGULATIONS.—Not later than 180 days after the date of enactment of this Act [Aug. 10, 2005], the Secretary shall issue regulations on the manner in which the Secretary will evaluate and rate the projects based on the results of preliminary engineering, project justification, and the degree of non-Federal financial commitment, as required under this subsection.

''(7) PROJECT EVALUATION AND RATING.—

''(A) IN GENERAL.—A proposed project may advance from preliminary engineering to final design and construction only if the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements.

''(B) EVALUATION AND RATING.—In making such findings, the Secretary shall evaluate and rate the project as 'highly recommended', 'recommended', or 'not recommended' based on the results of preliminary engineering, the project justification criteria, and the degree of non-Federal financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established under the regulations issued under paragraph (6).

''(g) LETTERS OF INTENT AND FULL FUNDING GRANT AGREEMENTS.—

''(1) LETTER OF INTENT.—

''(A) IN GENERAL.—The Secretary [of Transportation] may issue a letter of intent to an applicant announcing an intention to obligate, for a project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

''(B) NOTIFICATION.—At least 60 days before issuing a letter under subparagraph (A) or entering into a full funding grant agreement, the Secretary shall notify in writing the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

''(C) NOT AN OBLIGATION.—The issuance of a letter is deemed not to be an obligation under sections 1108(c), 1108(d), 1501, and 1502(a) of title 31, United States Code, or an administrative commitment.

''(D) OBLIGATION OR COMMITMENT.—An obligation or administrative commitment may be made only when contract authority is allocated to a project.

''(2) FULL FUNDING GRANT AGREEMENT.—

''(A) IN GENERAL.—A project financed under this subsection shall be carried out through a full funding grant agreement. The Secretary shall enter into a full funding grant agreement based on the evaluations and ratings required under subsection (f)(7).

''(B) TERMS.—If the Secretary makes a full funding grant agreement with an applicant, the agreement shall—

''(i) establish the terms of participation by the United States Government in a project under this section;

''(ii) establish the maximum amount of Government financial assistance for the project;

''(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and

''(iv) make timely and efficient management of the project easier according to the laws of the United States.

''(C) AGREEMENT.—An agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law. The agreement shall state that the contingent commitment is not an obligation of the Government. Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

''(3) AMOUNTS.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent and full funding grant agreements may be not more than the greater of the amount authorized to carry out this section or an amount equivalent to the last 2 fiscal years of funding authorized to carry out this section less an amount the Secretary reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters and contingent commitments included in full funding grant agreements may be not more than a limitation specified in law.

''(h) GRANT REQUIREMENTS.—

''(1) IN GENERAL.—A grant for a project under this section shall be subject to all of the requirements of title 23, United States Code.

''(2) OTHER TERMS AND CONDITIONS.—The Secretary [of Transportation] shall require that all grants under this section be subject to all terms, conditions, and requirements that the Secretary decides are necessary or appropriate for purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section.

''(i) GOVERNMENT'S SHARE OF PROJECT COST.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary [of Transportation] shall estimate the cost of a project receiving assistance under this section. A grant for the project is for 80 percent of the project cost, unless the grant recipient requests a lower grant percentage. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

''(j) FISCAL CAPACITY CONSIDERATIONS.—If the Secretary [of Transportation] gives priority consideration to financing projects that include more than the non-Government share required under subsection (i) the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

''(k) REPORTS.—

''(1) ANNUAL REPORT.—Not later than the first Monday in February of each year, the Secretary [of Transportation] shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that includes a proposal on the allocation of amounts to be made available to finance grants under this section.

''(2) RECOMMENDATIONS ON FUNDING.—The annual report under this paragraph [subsection] shall include evaluations and ratings, as required under subsection (f). The report shall also include recommendations of projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years and for the next 10 fiscal years based on information currently available to the Secretary.

''(*l*) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for ob-

ligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended and the Federal share of the cost of a project under this section shall be as provided in this section.

''(m) DESIGNATED PROJECTS.—[Omitted.]''

NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAM

Pub. L. 109–59, title I, § 1302, Aug. 10, 2005, 119 Stat. 1204, as amended by Pub. L. 110–244, title I, §§ 101(d), 103(b), June 6, 2008, 122 Stat. 1573, 1578, provided that:

''(a) IN GENERAL.—The Secretary [of Transportation] shall establish and implement a program to make allocations to States for highway construction projects in corridors of national significance to promote economic growth and international or interregional trade pursuant to the selection factors provided in this section. A State must submit an application to the Secretary in order to receive an allocation under this section.

''(b) SELECTION PROCESS.—

''(1) PRIORITY.—In the selection process under this section, the Secretary [of Transportation] shall give priority to projects in corridors that are a part of, or will be designated as part of, the Dwight D. Eisenhower National System of Interstate and Defense Highways after completion of the work described in the application received by the Secretary and to any project that will be completed within 5 years of the date of the allocation of funds for the project.

''(2) SELECTION FACTORS.—In making allocations under this section, the Secretary shall consider the following factors:

''(A) The extent to which the corridor provides a link between two existing segments of the Interstate System.

''(B) The extent to which the project will facilitate major multistate or regional mobility and economic growth and development in areas underserved by existing highway infrastructure.

''(C) The extent to which commercial vehicle traffic in the corridor—

''(i) has increased since the date of enactment of the North American Free Trade Agreement Implementation Act [Pub. L. 103–182, Dec. 8, 1993] (16 U.S.C. 4401 et seq. [see Tables for classification]); and

''(ii) is projected to increase in the future.

''(D) The extent to which international truck-borne commodities move through the corridor.

''(E) The extent to which the project will make improvements to an existing segment of the Interstate System that will result in a decrease in congestion.

''(F) The reduction in commercial and other travel time through a major freight corridor expected as a result of the project.

''(G) The value of the cargo carried by commercial vehicle traffic in the corridor and the economic costs arising from congestion in the corridor.

''(H) The extent of leveraging of Federal funds provided to carry out this section, including—

''(i) use of innovative financing;

''(ii) combination with funding provided under other sections of this Act [see Tables for classification] and title 23, United States Code; and

''(iii) combination with other sources of Federal, State, local, or private funding.

''(c) APPLICABILITY OF TITLE 23.—Funds made available by section 1101(a)(10) of this Act [119 Stat. 1154] to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended, and the Federal share of the cost of a project under this section shall be determined in accordance with section 120 of such title.

''(d) STATE DEFINED.—In this section, the term 'State' has the meaning such term has in section 101(a) of title 23, United States Code.

''(e) DESIGNATED PROJECTS.—[Omitted.]''

DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM

Pub. L. 109–59, title I, § 1308, Aug. 10, 2005, 119 Stat. 1218, provided that:

''(a) IN GENERAL.—The Secretary [of Transportation] shall carry out a program in the 8 States comprising the Delta Region (Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee) to—

''(1) support and encourage multistate transportation planning and corridor development;

''(2) provide for transportation project development;

''(3) facilitate transportation decisionmaking; and

''(4) support transportation construction.

''(b) ELIGIBLE RECIPIENTS.—A State transportation department or metropolitan planning organization in a Delta Region State may receive and administer funds provided under the program.

''(c) ELIGIBLE ACTIVITIES.—The Secretary [of Transportation] shall make allocations under the program for multistate highway planning, development, and construction projects.

''(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135 of title 23, United States Code.

''(e) SELECTION CRITERIA.—The Secretary [of Transportation] shall select projects to be carried out under the program based on—

''(1) whether the project is located—

''(A) in an area under the authority of the Delta Regional Authority; and

''(B) on a Federal-aid highway;

''(2) endorsement of the project by the State department of transportation; and

''(3) evidence of the ability of the recipient of funds provided under the program to complete the project.

''(f) PROGRAM PRIORITIES.—In administering the program, the Secretary [of Transportation] shall—

''(1) encourage State and local officials to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

''(2) give priority to projects that emphasize multimodal planning, including planning for operational improvements that—

''(A) increase the mobility of people and goods;

''(B) improve the safety of the transportation system with respect to catastrophic natural disasters or disasters caused by human activity; and

''(C) contribute to the economic vitality of the area in which the project is being carried out.

''(g) FEDERAL SHARE.—Amounts provided by the Delta Regional Authority to carry out a project under this subsection [probably means this section] may be applied to the non-Federal share of the project required by section 120 of title 23, United States Code.

''(h) FUNDING.—

''(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $10,000,000 for each of fiscal years 2006 through 2009.

''(2) CONTRACT AUTHORITY.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended.''

MOTORCYCLIST ADVISORY COUNCIL

Pub. L. 109–59, title I, § 1914, Aug. 10, 2005, 119 Stat. 1478, provided that:

''(a) IN GENERAL.—The Secretary [of Transportation], acting through the Administrator of the Federal Highway Administration, in consultation with the Committee on Transportation and Infrastructure of the House

of Representatives and the Committee on Environment and Public Works of the Senate, shall appoint a Motorcyclist Advisory Council to coordinate with and advise the Administrator on infrastructure issues of concern to motorcyclists, including—

''(1) barrier design;

''(2) road design, construction, and maintenance practices; and

''(3) the architecture and implementation of intelligent transportation system technologies.

''(b) COMPOSITION.—The Council shall consist of not more than 10 members of the motorcycling community with professional expertise in national motorcyclist safety advocacy, including—

''(1) at least—

''(A) one member recommended by a national motorcyclist association;

''(B) one member recommended by a national motorcycle riders foundation;

''(C) one representative of the National Association of State Motorcycle Safety Administrators;

''(D) two members of State motorcyclists' organizations;

''(E) one member recommended by a national organization that represents the builders of highway infrastructure;

''(F) one member recommended by a national association that represents the traffic safety systems industry; and

''(G) one member of a national safety organization; and

''(2) at least one, and not more than two, motorcyclists who are traffic system design engineers or State transportation department officials.''

NATIONAL CORRIDOR PLANNING AND DEVELOPMENT PROGRAM

Pub. L. 105–178, title I, §1118, June 9, 1998, 112 Stat. 161, provided that:

''(a) IN GENERAL.—The Secretary shall establish and implement a program to make allocations to States and metropolitan planning organizations for coordinated planning, design, and construction of corridors of national significance, economic growth, and international or interregional trade. A State or metropolitan planning organization may apply to the Secretary for allocations under this section.

''(b) ELIGIBILITY OF CORRIDORS.—The Secretary may make allocations under this section with respect to—

''(1) high priority corridors identified in section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 [Pub. L. 102–240, 105 Stat. 2032]; and

''(2) any other significant regional or multistate highway corridor not described in whole or in part in paragraph (1) selected by the Secretary after consideration of—

''(A) the extent to which the annual volume of commercial vehicle traffic at the border stations or ports of entry of each State—

''(i) has increased since the date of enactment of the North American Free Trade Agreement Implementation Act (Public Law 103–182 [Dec. 8, 1993]); and

''(ii) is projected to increase in the future;

''(B) the extent to which commercial vehicle traffic in each State—

''(i) has increased since the date of enactment of the North American Free Trade Agreement Implementation Act (Public Law 103–182); and

''(ii) is projected to increase in the future;

''(C) the extent to which international truck-borne commodities move through each State;

''(D) the reduction in commercial and other travel time through a major international gateway or affected port of entry expected as a result of the proposed project including the level of traffic delays at at-grade highway crossings of major rail lines in trade corridors;

''(E) the extent of leveraging of Federal funds provided under this subsection, including—

''(i) use of innovative financing;

''(ii) combination with funding provided under other sections of this Act [see Tables for classification] and title 23, United States Code; and

''(iii) combination with other sources of Federal, State, local, or private funding including State, local, and private matching funds;

''(F) the value of the cargo carried by commercial vehicle traffic, to the extent that the value of the cargo and congestion impose economic costs on the Nation's economy; and

''(G) encourage or facilitate major multistate or regional mobility and economic growth and development in areas underserved by existing highway infrastructure.

''(c) PURPOSES.—Allocations may be made under this section for 1 or more of the following purposes:

''(1) Feasibility studies.

''(2) Comprehensive corridor planning and design activities.

''(3) Location and routing studies.

''(4) Multistate and intrastate coordination for corridors described in subsection (b).

''(5) After review by the Secretary of a development and management plan for the corridor or a usable component thereof under subsection (b)—

''(A) environmental review; and

''(B) construction.

''(d) CORRIDOR DEVELOPMENT AND MANAGEMENT PLAN.—A State or metropolitan planning organization receiving an allocation under this section shall develop, and submit to the Secretary for review, a development and management plan for the corridor or a usable component thereof with respect to which the allocation is being made. Such plan shall include, at a minimum, the following elements:

''(1) A complete and comprehensive analysis of corridor costs and benefits.

''(2) A coordinated corridor development plan and schedule, including a timetable for completion of all planning and development activities, environmental reviews and permits, and construction of all segments.

''(3) A finance plan, including any innovative financing methods and, if the corridor is a multistate corridor, a State-by-State breakdown of corridor finances.

''(4) The results of any environmental reviews and mitigation plans.

''(5) The identification of any impediments to the development and construction of the corridor, including any environmental, social, political and economic objections.

In the case of a multistate corridor, the Secretary shall encourage all States having jurisdiction over any portion of such corridor to participate in the development of such plan.

''(e) APPLICABILITY OF TITLE 23.—Funds made available by section 1101 of this Act [set out in part as a note below] to carry out this section and section 1119 [set out below] shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

''(f) COORDINATION OF PLANNING.—Planning with respect to a corridor under this section shall be coordinated with transportation planning being carried out by the States and metropolitan planning organizations along the corridor and, to the extent appropriate, with transportation planning being carried out by Federal land management agencies, by tribal governments, or by government agencies in Mexico or Canada.

''(g) STATE DEFINED.—In this section, the term 'State' has the meaning such term has under section 101 of title 23, United States Code.''

COORDINATED BORDER INFRASTRUCTURE PROGRAM

Pub. L. 109–59, title I, §1303, Aug. 10, 2005, 119 Stat. 1207, provided that:

''(a) GENERAL AUTHORITY.—The Secretary [of Transportation] shall implement a coordinated border infra-

structure program under which the Secretary shall distribute funds to border States to improve the safe movement of motor vehicles at or across the border between the United States and Canada and the border between the United States and Mexico.

''(b) ELIGIBLE USES.—Subject to subsection (d), a State may use funds apportioned under this section only for—

''(1) improvements in a border region to existing transportation and supporting infrastructure that facilitate cross-border motor vehicle and cargo movements;

''(2) construction of highways and related safety and safety enforcement facilities in a border region that facilitate motor vehicle and cargo movements related to international trade;

''(3) operational improvements in a border region, including improvements relating to electronic data interchange and use of telecommunications, to expedite cross border motor vehicle and cargo movement;

''(4) modifications to regulatory procedures to expedite safe and efficient cross border motor vehicle and cargo movements; and

''(5) international coordination of transportation planning, programming, and border operation with Canada and Mexico relating to expediting cross border motor vehicle and cargo movements.

''(c) APPORTIONMENT OF FUNDS.—On October 1 of each fiscal year, the Secretary [of Transportation] shall apportion among border States sums authorized to be appropriated to carry out this section for such fiscal year as follows:

''(1) 20 percent in the ratio that—

''(A) the total number of incoming commercial trucks that pass through the land border ports of entry within the boundaries of a border State, as determined by the Secretary; bears to

''(B) the total number of incoming commercial trucks that pass through such ports of entry within the boundaries of all the border States, as determined by the Secretary.

''(2) 30 percent in the ratio that—

''(A) the total number of incoming personal motor vehicles and incoming buses that pass through land border ports of entry within the boundaries of a border State, as determined by the Secretary; bears to

''(B) the total number of incoming personal motor vehicles and incoming buses that pass through such ports of entry within the boundaries of all the border States, as determined by the Secretary.

''(3) 25 percent in the ratio that—

''(A) the total weight of incoming cargo by commercial trucks that pass through land border ports of entry within the boundaries of a border State, as determined by the Secretary; bears to

''(B) the total weight of incoming cargo by commercial trucks that pass through such ports of entry within the boundaries of all the border States, as determined by the Secretary.

''(4) 25 percent of the ratio that—

''(A) the total number of land border ports of entry within the boundaries of a border State, as determined by the Secretary; bears to

''(B) the total number of land border ports of entry within the boundaries of all the border States, as determined by the Secretary.

''(d) PROJECTS IN CANADA OR MEXICO.—A project in Canada or Mexico, proposed by a border State to directly and predominantly facilitate cross-border motor vehicle and cargo movements at an international port of entry into the border region of the State, may be constructed using funds apportioned to the State under this section if, before obligation of those funds, Canada or Mexico, or the political subdivision of Canada or Mexico that is responsible for the operation of the facility to be constructed, provides assurances satisfactory to the Secretary [of Transportation] that any facility constructed under this subsection will be—

''(1) constructed in accordance with standards equivalent to applicable standards in the United States; and

''(2) properly maintained and used over the useful life of the facility for the purpose for which the Secretary is allocating such funds to the project.

''(e) TRANSFER OF FUNDS TO THE GENERAL SERVICES ADMINISTRATION.—

''(1) STATE FUNDS.—At the request of a border State, funds apportioned to the State under this section may be transferred to the General Services Administration for the purpose of funding one or more projects described in subsection (b) if—

''(A) the Secretary [of Transportation] determines, after consultation with the transportation department of the border State, that the General Services Administration should carry out the project; and

''(B) the General Services Administration agrees to accept the transfer of, and to administer, those funds in accordance with this section.

''(2) NON-FEDERAL SHARE.—

''(A) IN GENERAL.—A border State that makes a request under paragraph (1) shall provide directly to the General Services Administration, for each project covered by the request, the non-Federal share of the cost of the project.

''(B) NO AUGMENTATION OF APPROPRIATIONS.—Funds provided by a border State under subparagraph (A)—

''(i) shall not be considered to be an augmentation of the appropriations made available to the General Services Administration; and

''(ii) shall be—

''(I) administered, subject to paragraph (1)(B), in accordance with the procedures of the General Services Administration; but

''(II) available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

''(3) OBLIGATION AUTHORITY.—Obligation authority shall be transferred to the General Services Administration for a project in the same manner and amount as the funds provided for the project under paragraph (1).

''(4) LIMITATION ON TRANSFER OF FUNDS.—No State may transfer to the General Services Administration under this subsection an amount that is more than the lesser of—

''(A) 15 percent of the aggregate amount of funds apportioned to the State under this section for such fiscal year; or

''(B) $5,000,000.

''(f) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that, subject to subsection (e), such funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of a project under this section shall be determined in accordance with section 120 of such title.

''(g) DEFINITIONS.—In this section, the following definitions apply:

''(1) BORDER REGION.—The term 'border region' means any portion of a border State within 100 miles of an international land border with Canada or Mexico.

''(2) BORDER STATE.—The term 'border State' means any State that has an international land border with Canada or Mexico.

''(3) COMMERCIAL TRUCK.—The term 'commercial truck' means a commercial motor vehicle as defined in section 31301(4) (other than subparagraph (B)) of title 49, United States Code.

''(4) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning such term has under section 101(a) of title 23, United States Code.

''(5) STATE.—The term 'State' has the meaning such term has in section 101(a) of such title 23.''

Pub. L. 105–178, title I, § 1119, June 9, 1998, 112 Stat. 163, provided that:

''(a) GENERAL AUTHORITY.—The Secretary shall establish and implement a coordinated border infrastructure

program under which the Secretary may make allocations to border States and metropolitan planning organizations for areas within the boundaries of 1 or more border States for projects to improve the safe movement of people and goods at or across the border between the United States and Canada and the border between the United States and Mexico.

''(b) ELIGIBLE USES.—Allocations to States and metropolitan planning organizations under this section may only be used in a border region for—

''(1) improvements to existing transportation and supporting infrastructure that facilitate cross-border vehicle and cargo movements;

''(2) construction of highways and related safety and safety enforcement facilities that will facilitate vehicle and cargo movements related to international trade;

''(3) operational improvements, including improvements relating to electronic data interchange and use of telecommunications, to expedite cross border vehicle and cargo movement;

''(4) modifications to regulatory procedures to expedite cross border vehicle and cargo movements;

''(5) international coordination of planning, programming, and border operation with Canada and Mexico relating to expediting cross border vehicle and cargo movements; and

''(6) activities of Federal inspection agencies.

''(c) SELECTION CRITERIA.—The Secretary shall make allocations under this section on the basis of—

''(1) expected reduction in commercial and other motor vehicle travel time through an international border crossing as a result of the project;

''(2) improvements in vehicle and highway safety and cargo security related to motor vehicles crossing a border with Canada or Mexico;

''(3) strategies to increase the use of existing, underutilized border crossing facilities and approaches;

''(4) leveraging of Federal funds provided under this section, including use of innovative financing, combination of such funds with funding provided under other sections of this Act [see Tables for classification], and combination with other sources of Federal, State, local, or private funding;

''(5) degree of multinational involvement in the project and demonstrated coordination with other Federal agencies responsible for the inspection of vehicles, cargo, and persons crossing international borders and their counterpart agencies in Canada and Mexico;

''(6) improvements in vehicle and highway safety and cargo security in and through the gateway or affected port of entry concerned;

''(7) the degree of demonstrated coordination with Federal inspection agencies;

''(8) the extent to which the innovative and problem solving techniques of the proposed project would be applicable to other border stations or ports of entry;

''(9) demonstrated local commitment to implement and sustain continuing comprehensive border or affected port of entry planning processes and improvement programs; and

''(10) such other factors as the Secretary determines are appropriate to promote border transportation efficiency and safety.

''(d) CONSTRUCTION OF TRANSPORTATION INFRASTRUCTURE FOR LAW ENFORCEMENT PURPOSES.—At the request of the Administrator of General Services, in consultation with the Attorney General, the Secretary may transfer, during the period of fiscal years 1998 through 2001, not more than $10,000,000 of the amounts made available by section 1101 [set out in part as a note below] to carry out this section and section 1118 [set out above] to the Administrator of General Services for the construction of transportation infrastructure necessary for law enforcement in border States.

''(e) DEFINITIONS.—In this section, the following definitions apply:

''(1) BORDER REGION.—The term 'border region' means the portion of a border State in the vicinity of an international border with Canada or Mexico.

''(2) BORDER STATE.—The term 'border State' means any State that has a boundary in common with Canada or Mexico.''

HIGHWAY ECONOMIC REQUIREMENT SYSTEM

Pub. L. 105–178, title I, §1213(a), June 9, 1998, 112 Stat. 199, provided that:

''(1) METHODOLOGY.—

''(A) EVALUATION.—The Comptroller General of the United States shall conduct an evaluation of the methodology used by the Department of Transportation to determine highway needs using the highway economic requirement system (in this subsection referred to as the 'model').

''(B) REQUIRED ELEMENT.—The evaluation shall include an assessment of the extent to which the model estimates an optimal level of highway infrastructure investment, including an assessment as to when the model may be overestimating or underestimating investment requirements.

''(C) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act [June 9, 1998], the Comptroller General shall submit to Congress a report on the results of the evaluation.

''(2) STATE INVESTMENT PLANS.—

''(A) STUDY.—In consultation with State transportation departments and other appropriate State and local officials, the Comptroller General of the United States shall conduct a study on the extent to which the model can be used to provide States with useful information for developing State transportation investment plans and State infrastructure investment projections.

''(B) REQUIRED ELEMENTS.—The study shall—

''(i) identify any additional data that may need to be collected beyond the data submitted, before the date of enactment of this Act, to the Federal Highway Administration through the highway performance monitoring system; and

''(ii) identify what additional work, if any, would be required of the Federal Highway Administration and the States to make the model useful at the State level.

''(C) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study.''

SOUTHWEST BORDER TRANSPORTATION INFRASTRUCTURE

Pub. L. 105–178, title I, §1213(d), June 9, 1998, 112 Stat. 200, provided that:

''(1) ASSESSMENT.—The Secretary shall conduct a comprehensive assessment of the state of the transportation infrastructure on the southwest border between the United States and Mexico (in this subsection referred to as the 'border').

''(2) CONSULTATION.—In carrying out the assessment, the Secretary shall consult with—

''(A) the Secretary of State;

''(B) the Attorney General;

''(C) the Secretary of the Treasury;

''(D) the Commandant of the Coast Guard;

''(E) the Administrator of General Services;

''(F) the American Commissioner on the International Boundary Commission, United States and Mexico;

''(G) State agencies responsible for transportation and law enforcement in border States; and

''(H) municipal governments and transportation authorities in sister cities in the border area.

''(3) REQUIREMENTS.—In carrying out the assessment, the Secretary shall—

''(A) assess the flow of commercial and private traffic through designated ports of entry on the border;

''(B) assess the adequacy of transportation infrastructure in the border area, including highways, bridges, railway lines, and border inspection facilities;

''(C) assess the adequacy of law enforcement and narcotics abatement activities in the border area, as

the activities relate to commercial and private traffic and infrastructure;

''(D) assess future demands on transportation infrastructure in the border area; and

''(E) make recommendations to facilitate legitimate cross-border traffic in the border area, while maintaining the integrity of the border.

''(4) REPORT.—Not later than 1 year after the date of enactment of this Act [June 9, 1998], the Secretary shall submit to Congress a report on the assessment conducted under this subsection, including any related legislative and administrative recommendations.''

TRANSPORTATION, COMMUNITY, AND SYSTEM PRESERVATION PROGRAM

Pub. L. 109–59, title I, §1117(a)–(g), Aug. 10, 2005, 119 Stat. 1177, 1178, provided that:

''(a) ESTABLISHMENT.—In cooperation with appropriate State, tribal, regional, and local governments, the Secretary [of Transportation] shall establish a comprehensive program to address the relationships among transportation, community, and system preservation plans and practices and identify private sector-based initiatives to improve such relationships.

''(b) PURPOSE.—Through the program under this section, the Secretary [of Transportation] shall facilitate the planning, development, and implementation of strategies to integrate transportation, community, and system preservation plans and practices that address one or more of the following:

''(1) Improve the efficiency of the transportation system of the United States.

''(2) Reduce the impacts of transportation on the environment.

''(3) Reduce the need for costly future investments in public infrastructure.

''(4) Provide efficient access to jobs, services, and centers of trade.

''(5) Examine community development patterns and identify strategies to encourage private sector development that achieves the purposes identified in paragraphs (1) through (4).

''(c) GENERAL AUTHORITY.—The Secretary [of Transportation] shall allocate funds made available to carry out this section to States, metropolitan planning organizations, local governments, and tribal governments to carry out eligible projects to integrate transportation, community, and system preservation plans and practices.

''(d) ELIGIBILITY.—A project described in subsection (c) is an eligible project under this section if the project—

''(1) is eligible for assistance under title 23 or chapter 53 of title 49, United States Code; or

''(2) is to conduct any other activity relating to transportation, community, and system preservation that the Secretary [of Transportation] determines to be appropriate, including corridor preservation activities that are necessary to implement one or more of the following:

''(A) Transit-oriented development plans.

''(B) Traffic calming measures.

''(C) Other coordinated transportation, community, and system preservation practices.

''(e) CRITERIA.—In allocating funds made available to carry out this section, the Secretary [of Transportation] shall give priority consideration to applicants that—

''(1) have instituted preservation or development plans and programs that—

''(A) are coordinated with State and local preservation or development plans, including transit-oriented development plans;

''(B) promote cost-effective and strategic investments in transportation infrastructure that minimize adverse impacts on the environment; or

''(C) promote innovative private sector strategies;

''(2) have instituted other policies to integrate transportation, community, and system preservation practices, such as—

''(A) spending policies that direct funds to high-growth areas;

''(B) urban growth boundaries to guide metropolitan expansion;

''(C) 'green corridors' programs that provide access to major highway corridors for areas targeted for efficient and compact development; or

''(D) other similar programs or policies as determined by the Secretary;

''(3) have preservation or development policies that include a mechanism for reducing potential impacts of transportation activities on the environment;

''(4) demonstrate a commitment to public and private involvement, including the involvement of non-traditional partners in the project team; and

''(5) examine ways to encourage private sector investments that address the purposes of this section.

''(f) EQUITABLE DISTRIBUTION.—In allocating funds to carry out this section, the Secretary [of Transportation] shall ensure the equitable distribution of funds to a diversity of populations and geographic regions.

''(g) FUNDING.—

''(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $25,000,000 for fiscal year 2005 and $61,250,000 for each of fiscal years 2006 through 2009.

''(2) CONTRACT AUTHORITY.—Funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable, and the Federal share for projects and activities carried out with such funds shall be determined in accordance with section 120(b) of title 23, United States Code.''

Pub. L. 105–178, title I, §1221, June 9, 1998, 112 Stat. 221, as amended by Pub. L. 108–88, §5(a)(9), Sept. 30, 2003, 117 Stat. 1114; Pub. L. 108–202, §5(a)(9), Feb. 29, 2004, 118 Stat. 481; Pub. L. 108–224, §4(a)(9), Apr. 30, 2004, 118 Stat. 629; Pub. L. 108–263, §4(a)(9), June 30, 2004, 118 Stat. 700; Pub. L. 108–280, §4(a)(9), July 30, 2004, 118 Stat. 879; Pub. L. 108–310, §5(a)(9), Sept. 30, 2004, 118 Stat. 1149; Pub. L. 109–14, §4(a)(9), May 31, 2005, 119 Stat. 327; Pub. L. 109–20, §4(a)(9), July 1, 2005, 119 Stat. 348; Pub. L. 109–35, §4(a)(9), July 20, 2005, 119 Stat. 381; Pub. L. 109–37, §4(a)(9), July 22, 2005, 119 Stat. 396; Pub. L. 109–40, §4(a)(9), July 28, 2005, 119 Stat. 412, which related to a transportation and community and system preservation pilot program and authorized appropriations to carry out such program through July 30, 2005, was repealed by Pub. L. 109–59, title I, §1117(h), Aug. 10, 2005, 119 Stat. 1179.

TRANSPORTATION ASSISTANCE FOR OLYMPIC CITIES

Pub. L. 105–178, title I, §1223, June 9, 1998, 112 Stat. 224, as amended by Pub. L. 105–206, title IX, §9003(j), July 22, 1998, 112 Stat. 842, provided that:

''(a) PURPOSE.—The purpose of this section is to authorize the provision of assistance for, and support of, State and local efforts concerning surface transportation issues necessary to obtain the national recognition and economic benefits of participation in the International Olympic movement, the International Paralympic movement, and the Special Olympics International movement by hosting international quadrennial Olympic and Paralympic events, and Special Olympics International events, in the United States.

''(b) PRIORITY FOR TRANSPORTATION PROJECTS RELATING TO OLYMPIC, PARALYMPIC, AND SPECIAL OLYMPIC EVENTS.—Notwithstanding any other provision of law, from funds available to carry out sections 118(c) and 144(g)(1) [now 144(f)(1)] of title 23, United States Code, the Secretary may give priority to funding for a transportation project relating to an international quadrennial Olympic or Paralympic event, or a Special Olympics International event, if—

''(1) the project meets the extraordinary needs associated with an international quadrennial Olympic or Paralympic event or a Special Olympics International event; and

''(2) the project is otherwise eligible for assistance under sections 118(c) and 144(g)(1) [now 144(f)(1)] of such title.

''(c) TRANSPORTATION PLANNING ACTIVITIES.—The Secretary may participate in—

''(1) planning activities of States and metropolitan planning organizations and transportation projects relating to an international quadrennial Olympic or Paralympic event, or a Special Olympics International event, under sections 134 and 135 of title 23, United States Code; and

''(2) developing intermodal transportation plans necessary for the projects in coordination with State and local transportation agencies.

''(d) FUNDING.—Notwithstanding section 5001(a) [112 Stat. 419], from funds made available under such section, the Secretary may provide assistance for the development of an Olympic, a Paralympic, and a Special Olympics transportation management plan in cooperation with an Olympic Organizing Committee responsible for hosting, and State and local communities affected by, an international quadrennial Olympic or Paralympic event or a Special Olympics International event.

''(e) TRANSPORTATION PROJECTS RELATING TO OLYMPIC, PARALYMPIC, AND SPECIAL OLYMPIC EVENTS.—

''(1) IN GENERAL.—The Secretary may provide assistance, including planning, capital, and operating assistance, to States and local governments in carrying out transportation projects relating to an international quadrennial Olympic or Paralympic event or a Special Olympics International event.

''(2) FEDERAL SHARE.—The Federal share of the cost of a project assisted under this subsection shall not exceed 80 percent.

''(f) ELIGIBLE GOVERNMENTS.—A State or local government shall be eligible to receive assistance under this section only if the government is hosting a venue that is part of an international quadrennial Olympics that is officially selected by the International Olympic Committee or Special Olympics International.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section such sums as are necessary for each of fiscal years 1998 through 2003.''

DISCRETIONARY GRANT SELECTION CRITERIA AND PROCESS

Pub. L. 105–178, title I, §1311, as added by Pub. L. 105–206, title IX, §9004(a), July 22, 1998, 112 Stat. 842, provided that:

''(a) ESTABLISHMENT OF CRITERIA.—The Secretary shall establish criteria for all discretionary programs funded from the Highway Trust Fund (other than the Mass Transit Account). To the extent practicable, such criteria shall conform to the Executive Order No. 12893 [31 U.S.C. 501 note] (relating to infrastructure investment).

''(b) SELECTION PROCESS.—

''(1) LIMITATION ON ACCEPTANCE OF APPLICATIONS.—Before accepting applications for grants under any discretionary program for which funds are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) by this Act [see Tables for classification] (including the amendments made by this Act), the Secretary shall publish the criteria established under subsection (a). Such publication shall identify all statutory criteria and any criteria established by regulation that will apply to the program.

''(2) EXPLANATION.—Not less often than quarterly, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a list of the projects selected under discretionary programs funded from the Highway Trust Fund (other than the Mass Transit Account) and an explanation of how the projects were selected based on the criteria established under subsection (a).

''(c) MINIMUM COVERED PROGRAMS.—At a minimum, the criteria established under subsection (a) and the selection process established by subsection (b) shall apply to the following programs:

''(1) The intelligent transportation system deployment program under title V [see Tables for classification].

''(2) The national corridor planning and development program.

''(3) The coordinated border infrastructure and safety program.

''(4) The construction of ferry boats and ferry terminal facilities.

''(5) The national scenic byways program.

''(6) The Interstate discretionary program.

''(7) The discretionary bridge program.''

COMPLIANCE WITH BUY AMERICAN ACT

Section 359(c) of Pub. L. 104–59 directed Secretary of Transportation to conduct a study on compliance with Buy American Act (41 U.S.C. 10a–10c) with respect to contracts entered into using amounts made available from Highway Trust Fund and not later than 1 year after Nov. 28, 1995, transmit to Congress report on results.

DISADVANTAGED BUSINESS ENTERPRISES

Pub. L. 109–59, title I, §1101(b), Aug. 10, 2005, 119 Stat. 1156, as amended by Pub. L. 110–244, title I, §101(a), June 6, 2008, 122 Stat. 1573, provided that:

''(1) DEFINITIONS.—In this subsection, the following definitions apply:

''(A) SMALL BUSINESS CONCERN.—The term 'small business concern' has the meaning that term has under section 3 of the Small Business Act (15 U.S.C. 632), except that the term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of $19,570,000, as adjusted annually by the Secretary [of Transportation] for inflation.

''(B) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term 'socially and economically disadvantaged individuals' has the meaning that term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations issued pursuant to that Act [15 U.S.C. 631 et seq.], except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this subsection.

''(2) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I, III, and V of this Act [see Tables for classification] and section 403 of title 23, United States Code, shall be expended through small business concerns owned and controlled by socially and economically disadvantaged individuals.

''(3) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually—

''(A) survey and compile a list of the small business concerns referred to in paragraph (2) and the location of the concerns in the State; and

''(B) notify the Secretary, in writing, of the percentage of the concerns that are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

''(4) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this subsection. The minimum uniform criteria shall include, but not be limited to, on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

''(5) COMPLIANCE WITH COURT ORDERS.—Nothing in this subsection limits the eligibility of an entity or person to receive funds made available under titles I, III, and V of this Act [see Tables for classification] and section 403 of title 23, United States Code, if the entity or person is prevented, in whole or in part, from complying with paragraph (2) because a Federal court issues a final order in which the court finds that the requirement of paragraph (2), or the program established under paragraph (2), is unconstitutional.''

Similar provisions were contained in the following prior acts:

Pub. L. 105–178, title I, §1101(b), June 9, 1998, 112 Stat. 113.

Pub. L. 102–240, title I, §1003(b), Dec. 18, 1991, 105 Stat. 1919.

Pub. L. 100–17, title I, §106(c), Apr. 2, 1987, 101 Stat. 145.

Pub. L. 109–14, §7(s), May 31, 2005, 119 Stat. 334, provided that: ''Amounts made available under the amendments made by this section [amending sections 5307, 5309, and 5338 of Title 49, Transportation, and provisions set out as notes under section 322 of this title and sections 5307, 5309, 5310, and 5338 of Title 49] shall be treated for purposes of section 1101(b) of the Transportation Equity Act for the 21st Century [Pub. L. 105–178] (23 U.S.C. 101 note) as amounts made available for programs under title III of such Act [see Tables for classification].''

Similar provisions were contained in the following prior acts:

Pub. L. 108–310, §8(t), Sept. 30, 2004, 118 Stat. 1158.

Pub. L. 108–88, §8(t), Sept. 30, 2003, 117 Stat. 1126, as amended by Pub. L. 108–202, §9(t), Feb. 29, 2004, 118 Stat. 489; Pub. L. 108–224, §7(t), Apr. 30, 2004, 118 Stat. 637; Pub. L. 108–263, §7(t), June 30, 2004, 118 Stat. 708; Pub. L. 108–280, §7(t), July 30, 2004, 118 Stat. 885.

HIGHWAY USE TAX EVASION PROJECTS

Pub. L. 102–240, title I, §1040, Dec. 18, 1991, 105 Stat. 1992, as amended by Pub. L. 104–59, title III, §325(f), Nov. 28, 1995, 109 Stat. 592; Pub. L. 104–66, title I, §1122(b), Dec. 21, 1995, 109 Stat. 725; Pub. L. 105–130, §5(c)(1), Dec. 1, 1997, 111 Stat. 2557, related to highway use tax evasion projects, prior to repeal by Pub. L. 105–178, title I, §1114(b)(2), June 9, 1998, 112 Stat. 154. See section 143 of this title.

SCENIC BYWAYS PROGRAM

Section 1047 of Pub. L. 102–240, as amended by Pub. L. 105–130, §5(c)(2), Dec. 1, 1997, 111 Stat. 2557, provided that:

''(a) SCENIC BYWAYS ADVISORY COMMITTEE.—

''(1) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 1991], the Secretary shall establish in the Department of Transportation an advisory committee to assist the Secretary with respect to establishment of a national scenic byways program under title 23, United States Code.

''(2) MEMBERSHIP.—The advisory committee established under this section shall be composed of 17 members as follows:

''(A) The Administrator of the Federal Highway Administration or the designee of the Administrator who shall serve as chairman of the advisory committee.

''(B) The Chief of the Forest Service of the Department of Agriculture or the designee of the Chief.

''(C) The Director of the National Park Service of the Department of the Interior or the designee of the Director.

''(D) The Director of the Bureau of Land Management of the Department of the Interior or the designee of the Director.

''(E) The Under Secretary for Travel and Tourism of the Department of Commerce or the designee of the Under Secretary.

''(F) The Assistant Secretary for Indian Affairs of the Department of the Interior or the designee of the Assistant Secretary.

''(G) 1 individual appointed by the Secretary who is specially qualified to represent the interests of conservationists on the advisory committee.

''(H) 1 individual appointed by the Secretary of Transportation who is specially qualified to represent the interests of recreational users of scenic byways on the advisory committee.

''(I) 1 individual appointed by the Secretary who is specially qualified to represent the interests of the tourism industry on the advisory committee.

''(J) 1 individual appointed by the Secretary who is specially qualified to represent the interests of historic preservationists on the advisory committee.

''(K) 1 individual appointed by the Secretary who is specially qualified to represent the interests of highway users on the advisory committee.

''(L) 1 individual appointed by the Secretary to represent State highway and transportation officials.

''(M) 1 individual appointed by the Secretary to represent local highway and transportation officials.

''(N) 1 individual appointed by the Secretary who is specially qualified to serve on the advisory committee as a planner.

''(O) 1 individual appointed by the Secretary who is specially qualified to represent the motoring public.

''(P) 1 individual appointed by the Secretary who is specially qualified to represent groups interested in scenic preservation.

''(Q) 1 individual appointed by the Secretary who represents the outdoor advertising industry.

Individuals appointed as members of the advisory committee under subparagraphs (G) through (P) may be State and local government officials. Members shall serve without compensation other than for reasonable expenses incident to functions of the advisory committee.

''(3) FUNCTIONS.—The advisory committee established under this subsection shall develop and make to the Secretary recommendations regarding minimum criteria for use by State and Federal agencies in designating highways as scenic byways and as all-American roads for purposes of a national scenic byways program to be established under title 23, United States Code. Such recommendations shall include recommendations on the following:

''(A) Consideration of the scenic beauty and historic significance of highways proposed for designation as scenic byways and all-American roads and the areas surrounding such highways.

''(B) Operation and management standards for highways designated as scenic byways and all-American roads, including strategies for maintaining or improving the qualities for which a highway is designated as a scenic byway or all-American road, for protecting and enhancing the landscape and view corridors surrounding such a highway, and for minimizing traffic congestion on such a highway.

''(C)(i) Standards for scenic byway-related signs, including those which identify highways as scenic byways and all-American roads.

''(ii) The advisability of uniform signs identifying highways as components of the scenic byway system.

''(D) Standards for maintaining highway safety on the scenic byway system.

''(E) Design review procedures for location of highway facilities, landscaping, and travelers' facilities on the scenic byway system.

''(F) Procedures for reviewing and terminating the designation of a highway designated as a scenic byway.

''(G) Such other matters as the advisory committee may deem appropriate.

''(H) Such other matters for which the Secretary may request recommendations.

''(4) REPORT.—Not later than 18 months after the date of the enactment of this Act [Dec. 18, 1991], the advisory committee established under this section shall submit to the Secretary and Congress a report containing the recommendations described in paragraph (3).

''(b) TECHNICAL AND FINANCIAL ASSISTANCE.—The Secretary shall provide technical assistance to the States (as such term is defined under section 101 of title 23, United States Code) and shall make grants to the States for the planning, design, and development of State scenic byway programs.

''(c) FEDERAL SHARE.—The Federal share payable for the costs of planning, design, and development of State scenic byway programs under this section shall be 80 percent.

''(d) FUNDING.—There shall be available to the Secretary for carrying out this section (other than subsection (f)), out of the Highway Trust Fund (other than the Mass Transit Account), $1,000,000 for fiscal year 1992, $3,000,000 for fiscal year 1993, $4,000,000 for fiscal year 1994, $14,000,000 for each of the fiscal years 1995, 1996, and 1997, and $7,000,000 for the period of October 1, 1997, through March 31, 1998. Such sums shall remain available until expended.

''(e) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a grant under this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of activities for which the grant is being made.

''(f) INTERIM SCENIC BYWAYS PROGRAM.—

''(1) GRANT PROGRAM.—During fiscal years 1992, 1993, and 1994, the Secretary may make grants to any State which has a scenic highway program for carrying out eligible projects on highways which the State has designated as scenic byways.

''(2) PRIORITY PROJECTS.—In making grants under paragraph (1), the Secretary shall give priority to—

''(A) those eligible projects which are included in a corridor management plan for maintaining scenic, historic, recreational, cultural, and archeological characteristics of the corridor while providing for accommodation of increased tourism and development of related amenities;

''(B) those eligible projects for which a strong local commitment is demonstrated for implementing the management plans and protecting the characteristics for which the highway is likely to be designated as a scenic byway;

''(C) those eligible projects which are included in programs which can serve as models for other States to follow when establishing and designing scenic byways on an intrastate or interstate basis; and

''(D) those eligible projects in multi-State corridors where the States submit joint applications.

''(3) ELIGIBLE PROJECTS.—The following are projects which are eligible for Federal assistance under this subsection:

''(A) Planning, design, and development of State scenic byway programs.

''(B) Making safety improvements to a highway designated as a scenic byway under this subsection to the extent such improvements are necessary to accommodate increased traffic, and changes in the types of vehicles using the highway, due to such designation.

''(C) Construction along the highway of facilities for the use of pedestrians and bicyclists, rest areas, turnouts, highway shoulder improvements, passing lanes, overlooks, and interpretive facilities.

''(D) Improvements to the highway which will enhance access to an area for the purpose of recreation, including water-related recreation.

''(E) Protecting historical and cultural resources in areas adjacent to the highway.

''(F) Developing and providing tourist information to the public, including interpretive information about the scenic byway.

''(4) FEDERAL SHARE.—The Federal share payable for the costs of carrying out projects and developing programs under this subsection with funds made available pursuant to this subsection shall be 80 percent.

''(5) FUNDING.—There shall be available to the Secretary for carrying out this subsection, out of the Highway Trust Fund (other than the Mass Transit Account), $10,000,000 for fiscal year 1992, $10,000,000 for fiscal year 1993, and $10,000,000 for fiscal year 1994. Such sums shall remain available until expended.

''(g) LIMITATION.—The Secretary shall not make a grant under this section for any project which would not protect the scenic, historic, recreational, cultural, natural, and archeological integrity of the highway and adjacent area. The Secretary may not use more than 10 percent of the funds authorized for each fiscal year under subsection (f)(5) for removal of any outdoor advertising sign, display, or device.

''(h) TREATMENT OF SCENIC HIGHWAYS IN OREGON.—For purposes of this section, a highway designated as a scenic highway in the State of Oregon shall be treated as a scenic byway.''

COMMEMORATION OF DWIGHT D. EISENHOWER SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

Section 6012 of Pub. L. 102–240 provided that:

''(a) STUDY.—The Secretary shall conduct a study to determine an appropriate symbol or emblem to be placed on highway signs referring to the Interstate System to commemorate the vision of President Dwight D. Eisenhower in creating the Dwight D. Eisenhower National System of Interstate and Defense Highways [now Dwight D. Eisenhower System of Interstate and Defense Highways].

''(b) REPORT.—Not later than 1 year after the date of the enactment of this Act [Dec. 18, 1991], the Secretary shall transmit to Congress a report on the results of the study under this section.''

DESIGNATION OF NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS AS THE DWIGHT D. EISENHOWER SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

Pub. L. 101–427, Oct. 15, 1990, 104 Stat. 927, as amended by Pub. L. 107–217, §6(b), Aug. 21, 2002, 116 Stat. 1304; Pub. L. 108–178, §2(b)(3), Dec. 15, 2003, 117 Stat. 2640, provided: ''That—

''(a) notwithstanding any other provision of law, The National System of Interstate and Defense Highways shall be redesignated as 'The Dwight D. Eisenhower System of Interstate and Defense Highways'; and

''(b) any reference before the date of enactment of this Act [Oct. 15, 1990] in any provision of law, regulation, map, sign, or otherwise to The National System of Interstate and Defense Highways shall be deemed to refer, on and after such date, to The Dwight D. Eisenhower System of Interstate and Defense Highways.''

SIGNS IDENTIFYING FUNDING SOURCES

Pub. L. 100–17, title I, §154, Apr. 2, 1987, 101 Stat. 209, which related to erection of signs indicating sources of funding on projects under construction with funds from the Highway Trust Fund, was repealed and restated in section 321 of this title by Pub. L. 109–59, title I, §1901(a), (c), Aug. 10, 2005, 119 Stat. 1464.

ELIGIBILITY FOR FEDERAL-AID HIGHWAY FUNDS OF PROJECTS INVOLVING IMPROVEMENTS IN VICINITY OF INTERCHANGES NECESSARY TO UPGRADE SAFETY OF PRIMARY ROUTES NOT ON COMMON ALIGNMENT WITH INTERSTATE ROUTE

Section 128 of Pub. L. 97–424 provided that: ''In any case where a project involving a Federal-aid primary route not on the Interstate System, and a route on the Interstate System which was originally constructed without the expenditure of any funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956,

as amended [set out as a note below], and was subsequently added to the Interstate System, both occupying a common alignment and having elements which have been approved in concept by the Secretary of Transportation as part of a project providing for the upgrading of an interchange on such Interstate route, the cost of improvements in the vicinity of the interchange necessary to upgrade the safety of that part of such Federal-aid primary route not on a common alignment with such Interstate route in an environmentally acceptable manner shall be eligible for the expenditure of funds authorized by such section 108(b).''

STUDY OF FUTURE TRANSPORTATION PROFESSIONAL MANPOWER NEEDS; REPORT

Section 135 of Pub. L. 97–424 provided that: ''The Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences' Transportation Research Board to conduct a comprehensive study and investigation of future transportation professional manpower needs, including but not limited to prevailing methods of recruitment, training, and financial and other incentives and disincentives which encourage or discourage retention in service of such professional manpower by Federal, State, and local governments. In entering into any arrangement with the National Academy of Sciences for conducting such study and investigation, the Secretary shall request the National Academy of Sciences to report to the Secretary and the Congress not later than two years after the enactment of this Act [Jan. 6, 1983] on the results of such study and investigation, together with its recommendations. The Secretary shall furnish to the Academy at its request any information which the Academy deems necessary for the purpose of conducting the study and investigation authorized by this section.''

CHANGE IN LOCATION OF INTERSTATE SEGMENTS

Section 139 of Pub. L. 97–424, as amended by Pub. L. 100–457, title III, § 348, Sept. 30, 1988, 102 Stat. 2156, provided that:

''(a) Notwithstanding the provisions of section 4(b) of the Federal-Aid Highway Act of 1981 [section 4(b) of Pub. L. 97–134, which amended section 108(b) of the Federal-Aid Highway Act of 1956, set out as a note under this section] the Secretary of Transportation may approve a change in location of any Interstate route or segment and approve, in lieu thereof, the construction of such Interstate route or segment on a new location if the original location of such route or segment meets the following criteria: (1) it has been designated under section 103(e) of title 23, United States Code; (2) it is serving Interstate travel as of the date of enactment of this section [Jan. 6, 1983]; (3) it requires improvements which are eligible under the Federal-Aid Highway Act of 1981 [see Short Title of 1981 Amendments note above] and which would either involve major modifications in order to meet acceptable standards or result in severe environmental impacts and such major modifications or mitigation measures relating to the environmental impacts are not cost effective. The cost of the construction of such Interstate route or segment on new location with funds available under section 108(b) of the Federal-Aid Highway Act of 1956, as amended [set out as a note below], shall not exceed the estimated cost of the eligible improvements on the original location as eligible under the Federal-Aid Highway Act of 1981 and included in the 1983 interstate cost estimate as approved by the Congress. Such cost shall be increased or decreased, as determined by the Secretary, based on changes in construction costs of the original location of the route or segment as of the date of approval of each project on the new location. Upon approval of a new location, and funds apportioned under section 104(b)(5)(A) of title 23, United States Code, which were expended on the route or segment in the original location shall be refunded to the Highway Trust Fund and credited to the unobligated balance of the State's apportionment made under section 104(b)(5)(A) of title 23, United States Code, and other eligible Federal-aid highway funds may be substituted in lieu thereof at the appropriate Federal share.

''(b) Where the Secretary of Transportation approves a relocation of an Interstate route or segment under the provisions of subsection (a) of this section, such route or segment shall not be eligible for withdrawal under the provisions of section 103(e)(4) of title 23, United States Code, and shall be subject to the Interstate System completion deadlines provided in subsections (d) and (e) of section 107 of the Surface Transportation Assistance Act of 1978 [section 107(d), (e) of Pub. L. 95–599, set out as a note under section 103 of this title] or subject to Interstate System completion deadlines as may be determined by Congress.

''(c) Notwithstanding any other provision of this section or of any other provision of law, any project involving the relocation of any Interstate route or segment that is approved by the Secretary of Transportation under subsection (a) shall be eligible for discretionary funds made available under section 118(b)(2)(B) of title 23, United States Code.''

BUY AMERICA

Pub. L. 97–424, title I, § 165, Jan. 6, 1983, 96 Stat. 2136, as amended by Pub. L. 98–229, § 10, Mar. 9, 1984, 98 Stat. 57; Pub. L. 100–17, title I, §§ 133(a)(6), 337(a)(1), (b), (c), Apr. 2, 1987, 101 Stat. 171, 241; Pub. L. 102–240, title I, § 1048, title III, § 3003(b), Dec. 18, 1991, 105 Stat. 1999, 2088; Pub. L. 103–272, § 4(r), July 5, 1994, 108 Stat. 1371; Pub. L. 103–429, § 7(a)(3)(E), Oct. 31, 1994, 108 Stat. 4389, which prohibited obligation of funds unless steel, iron, and manufactured products used in the project had been produced in the United States, was repealed and restated in section 313 of this title by Pub. L. 109–59, title I, § 1903(a), (d), Aug. 10, 2005, 119 Stat. 1464, 1465.

USE OF ARTICLES MINED OR MANUFACTURED IN UNITED STATES

Pub. L. 95–599, title IV, § 401, Nov. 6, 1978, 92 Stat. 2756, as amended by Pub. L. 97–327, § 6, Oct. 15, 1982, 96 Stat. 1613, which required that articles, materials, and supplies used in projects administered by Department of Transportation be mined or produced in United States, was repealed by Pub. L. 97–424, title I, § 165(e), Jan. 6, 1983, 96 Stat. 2137.

INTERCITY PORTIONS OF INTERSTATE SYSTEM; CONSTRUCTION OF PROJECTS; REPORT TO CONGRESS; EXEMPTION

Section 102(b) of Pub. L. 94–280 provided that at least 30 percent of the apportionment made to each State for each of the fiscal years ending Sept. 30, 1978, and Sept. 30, 1979, of the sums authorized in section 102(a) of Pub. L. 94–280 be expended by such State for projects for the construction of intercity portions which would close essential gaps in the Interstate System and provide a continuous System; that the Secretary of Transportation report to Congress before Oct. 1, 1976, on those intercity portions of the Interstate System the construction of which would be needed to close essential gaps in the System; and that a State which did not have sufficient projects to meet the 30 percent requirement would, upon approval of the Secretary of Transportation, be exempt from the requirement to the extent of such inability.

INTERSTATE SYSTEM; PROHIBITION OF OBLIGATION OF FUNDS FOR RESURFACING, RESTORATION, OR REHABILITATION PROJECTS

Section 102(c) of Pub. L. 94–280 provided that no part of the funds authorized by section 108(b) of the Federal-Aid Highway Act of 1956, as amended [set out as a note below], for the Interstate System, shall be obligated for any project for resurfacing, restoring, or rehabilitating any portion of the Interstate System.

INTERSTATE FUNDING STUDY; REPORT AND RECOMMENDATIONS TO CONGRESS

Section 150 of Pub. L. 94–280 directed Secretary of Transportation to undertake a complete study of the financing of completion of the Interstate Highway System and report to Congress within nine months the results of the study, and to submit to Congress within one year his recommendations regarding the need to provide Federal financial assistance for resurfacing, restoration, and rehabilitation of routes of the System together with results of a study of alternative means of assuring that the high level of transportation service provided by the System is maintained.

STUDY OF HIGHWAY NEEDS TO SOLVE ENERGY PROBLEMS; INVESTIGATION AND STUDY; REPORT TO CONGRESS

Section 153 of Pub. L. 94–280 directed Secretary of Transportation to make an investigation and study for the purpose of determining the need for special Federal assistance in the construction or reconstruction of highways on the Federal-aid system necessary for the transportation of coal or other uses in order to promote the solution of the Nation's energy problems; that such study include appropriate consultations with the Secretary of the Interior, the Administrator of the Federal Energy Administration, and other appropriate Federal and State officials; that the Secretary report the results of such investigation and study together with his recommendations, to the Congress not later than one year after May 5, 1976; and that, in order to carry out the study, the Secretary use such funds as were available to him for such purposes under section 104(a) of this title.

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION; ESTABLISHMENT; TERMINATION; ETC.

Section 154 of Pub. L. 94–280, as amended by Pub. L. 95–599, title I, §137(a), (b)(1), Nov. 6, 1978, 92 Stat. 2710, established National Transportation Policy Study Commission; directed Commission, not later than July 1, 1979, to make an investigation and study and report to the President and Congress on the transportation needs and the resources, requirements, and policies of the United States to meet such expected needs; and provided for the Commission to terminate six months after the report.

CONSENT OF GOVERNING BODY FOR EXPENDITURE OF FUNDS

Section 102(d) of Pub. L. 93–643 provided that no funds appropriated under the expanded definition of this section [23 U.S.C. 101(a)] shall be expended without the formal consent of the governing body of the tribe band or group of Indians or Alaskan Natives for whose use the Indian reservation roads and bridges are intended.''

CARPOOL DEMONSTRATION PROJECTS IN URBAN AREAS; APPROPRIATIONS AUTHORIZATION

Section 120(b) of Pub. L. 93–643, relating to grants for demonstration projects designed to encourage the use of carpools in urban areas, was repealed by Pub. L. 95–599, title I, §126(b), Nov. 6, 1978, 92 Stat. 2706. See section 146 of this title.

EMERGENCY HIGHWAY ENERGY CONSERVATION

Pub. L. 93–239, §§1–3, Jan. 2, 1974, 87 Stat. 1046, 1047, as amended by Pub. L. 93–643, §§114(c), 120(a), Jan. 4, 1975, 83 Stat. 2286, 2289; Pub. L. 94–280, title I, §143, May 5, 1976, 90 Stat. 445; Pub. L. 95–599, title I, §126(b), Nov. 6, 1978, 92 Stat. 2706, provided:

''[Section 1. Short title]. That this Act be cited as the 'Emergency Highway Energy Conservation Act'.

''SEC. 2. [Repealed. Pub. L. 93–643, §114(c), Jan. 4, 1975, 88 Stat. 2086.]

''SEC. 3. [Repealed. Pub. L. 95–599, title I, §126(b), Nov. 6, 1978, 92 Stat. 2706.]''

Section 4 of Pub. L. 93–239 amended section 601(d) of Federal Aviation Act of 1958, as amended [section 1421(d) of former Title 49, Transportation], relating to emergency locator transmitters.

FUTURE HIGHWAY NEEDS: REPORTS TO CONGRESS

Section 121 of Pub. L. 91–605 provided that:

''(a) The Secretary of Transportation shall develop and include in the report of Congress required to be submitted in January 1972, by section 3 of the Act of August 28, 1965 (79 Stat. 578; Public Law 89–139) [set out below], specific recommendations for the functional realinement of the Federal-aid systems. These recommendations shall be based on the functional classification study made in cooperation with the State highway departments and local governments as required by the Federal-Aid Highway Act of 1968 [see section 17 of Pub. L. 90–495, set out as a note below] and submitted to the Congress in 1970, and the functional classification study now underway of the Federal-aid systems in 1990.

''(b) As a part of the future highway needs report to be submitted to Congress in January 1972, the Secretary shall also make recommendations to the Congress for a continuing Federal-aid highway program for the period 1976 to 1990. The needs estimates to be used in developing such programs shall be in conformance with the functional classification studies referred to in subsection (a) of this section and the recommendations for the functional realinement required by such subsection.

''(c) The recommendations required by subsections (a) and (b) of this section shall be determined on the basis of studies now being conducted by the Secretary in cooperation with the State highway departments and local governments, and, in urban areas of more than fifty thousand population, utilizing the cooperative continuing comprehensive transportation planning process conducted in accordance with section 134 of title 23, United States Code. The highway needs estimates prepared by the States in connection with this report to Congress shall be submitted to Congress by the Secretary, together with his recommendations.

''(d) As a part of the future highway needs report to be submitted to Congress on January 1972, the Secretary shall report to Congress the Federal-aid urban system as designated, and the cost of its construction.''

Pub. L. 89–139, §3, Aug. 28, 1965, 79 Stat. 578, which had required the submitting of a report to Congress every second year as to the estimates of the future highway needs of the Nation, and Pub. L. 90–495, §17, Aug. 23, 1968, 82 Stat. 823, which had required that the report include the results of a systematic nationwide functional highway classification study, were repealed by Pub. L. 97–424, title I, §160(b), Jan. 6, 1983, 96 Stat. 2135.

STUDIES OF NEED FOR AND SURVEY OF HIGHWAY CONSTRUCTION PROGRAMS FOR GUAM, AMERICAN SAMOA, AND THE VIRGIN ISLANDS

Pub. L. 90–495, §29, Aug. 23, 1968, 82 Stat. 830, directed the Secretary of Transportation, in cooperation with the government of Guam, the government of American Samoa, and the government of the Virgin Islands, to make studies of the need for, and estimates and planning surveys relative to, highway construction programs for Guam, American Samoa, and the Virgin Islands, and to submit a report to Congress on or before April 1, 1969.

Pub. L. 89–574, §13, Sept. 13, 1966, 80 Stat. 770, as amended by Pub. L. 97–449, §2(a), Jan. 2, 1983, 96 Stat. 2439, directed the Secretary, in cooperation with the government of Guam, the government of American Samoa, and the government of the Virgin Islands to make studies of the need for, and estimates and planning surveys relative to, highway construction programs for Guam, American Samoa, and the Virgin Islands, and to submit a report to Congress on or before July 1, 1967.

REPORT AND RECOMMENDATIONS OF SECRETARY OF COMMERCE

Section 5 of Pub. L. 85–767 directed Secretary of Commerce to submit to Congress not later than Feb. 1, 1959,

a report on progress made in attaining objectives set forth in this section, together with recommendations.

SECTION 108(b) OF THE FEDERAL-AID HIGHWAY ACT OF 1956

Section 108(b) of act June 29, 1956, ch. 462, title I, 70 Stat. 378, as amended by Pub. L. 85–381, § 7(a), Apr. 16, 1958, 72 Stat. 93; Pub. L. 86–342, title I, § 102, Sept. 21, 1959, 73 Stat. 611; Pub. L. 87–61, title I § 103, June 29, 1961, 75 Stat. 122; Pub. L. 89–139, § 1, Aug. 28, 1965, 79 Stat. 578; Pub. L. 89–574, § 2, Sept. 13, 1966, 80 Stat. 766; Pub. L. 90–495, § 2, Aug. 23, 1968, 82 Stat. 815; Pub. L. 91–605 title I, §§ 102, 106(b)(1), Dec. 31, 1970, 84 Stat. 1714, 1716; Pub. L. 93–87, title I, § 102, Aug. 13, 1973, 87 Stat. 250; Pub. L. 94–280, title I, § 102(a), May 5, 1976, 90 Stat. 425; Pub. L. 95–599, title I, § 102, Nov. 6, 1978, 92 Stat. 2689; Pub. L. 97–134, § 4(a), (b), Dec. 29, 1981, 95 Stat. 1700; Pub. L. 97–327, § 2, Oct. 15, 1982, 96 Stat. 1611; Pub. L. 97–424, title I, §§ 102, 127(a), Jan. 6, 1983, 96 Stat. 2097, 2117; Pub. L. 100–17, title I, §§ 104, 138, Apr. 2, 1987, 101 Stat. 142, 175; Pub. L. 102–240, title I, § 1001(f), Dec. 18, 1991, 105 Stat. 1916; Pub. L. 103–331, title III, § 335(c), Sept. 30, 1994, 108 Stat. 2494, provided that: ''For the purpose of expediting the construction, reconstruction, or improvement, inclusive of necessary bridges and tunnels, of the Interstate System, including extensions thereof through urban areas, designated in accordance with the provisions of subsection (e) of section 103 of title 23, United States Code, there is hereby authorized to be appropriated the additional sum of $1,000,000,000 for the fiscal year ending June 30, 1957, which sum shall be in addition to the authorization heretofore made for that year, the additional sum of $1,700,000,000 for the fiscal year ending June 30, 1958, the additional sum of $2,200,000,000 for the fiscal year ending June 30, 1959, the additional sum of $2,500,000,000 for the fiscal year ending June 30, 1960, the additional sum of $1,800,000,000 for the fiscal year ending June 30, 1961, the additional sum of $2,200,000,000 for the fiscal year ending June 30, 1962, the additional sum of $2,400,000,000 for the fiscal year ending June 30, 1963, the additional sum of $2,600,000,000 for the fiscal year ending June 30, 1964, the additional sum of $2,700,000,000 for the fiscal year ending June 30, 1965, the additional sum of $2,800,000,000 for the fiscal year ending June 30, 1966, the additional sum of $3,000,000,000 for the fiscal year ending June 30, 1967, the additional sum of $3,400,000,000 for the fiscal year ending June 30, 1968, the additional sum of $3,800,000,000 for the fiscal year ending June 30, 1969, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1970, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1971, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1972, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1973, the additional sum of $2,600,000,000 for the fiscal year ending June 30, 1974, the additional sum of $3,000,000,000 for the fiscal year ending June 30, 1975, the additional sum of $3,000,000,000 for the fiscal year ending June 30, 1976, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1977, the additional sum of $3,250,000,000 for the fiscal year ending September 30, 1978, the additional sum of $3,250,000,000 for the fiscal year ending September 30, 1979, the additional sum of $3,250,000,000 for the fiscal year ending September 30, 1980, the additional sum of $3,500,000,000 for the fiscal year ending September 30, 1981, the additional sum of $3,500,000,000 for the fiscal year ending September 30, 1982, the additional sum of $3,100,000,000 for the fiscal year ending September 30, 1983, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1984, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1985, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1986, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1987, the additional sum of $3,000,000,000 for the fiscal year ending September 30, 1988, the additional sum of $3,150,000,000 for the fiscal year ending September 30, 1989, the additional sum of $3,150,000,000 for the fiscal year ending September 30, 1990, the additional sum of $3,150,000,000 for the fiscal year ending September 30, 1991, the additional sum of $3,150,000,000 for the fiscal year ending September 30, 1992, the additional sum of $1,800,000,000 for the fiscal year ending September 30, 1993, the additional sum of $1,800,000,000 for the fiscal year ending September 30, 1994, the additional sum of $1,800,000,000 for the fiscal year ending September 30, 1995, and the additional sum of $1,800,000,000, reduced by the amount made available under section 1045(b)(1)(B) of the Intermodal Surface Transportation Efficiency Act of 1991 [Pub. L. 102–240, as amended by Pub. L. 103–331, title III, § 335(a), Sept. 30, 1994, 108 Stat. 2494, which is not classified to the Code], for the fiscal year ending September 30, 1996. Nothing in this subsection shall be construed to authorize the appropriation of any sums to carry out sections 131, 136, or 319(b) of title 23, United States Code, or any provision of law relating to highway safety enacted after May 1, 1966. Beginning with funds authorized to be appropriated for fiscal year 1980, no such funds shall be available for projects to expand or clear zones immediately adjacent to the paved roadway of routes designed prior to February, 1967. Effective on and after the date of enactment of this sentence [Dec. 29, 1981], the obligation of funds authorized by this subsection, except for advance construction interstate projects approved before the date of enactment of this sentence, shall be limited to the construction necessary to provide a minimum level of acceptable service on the Interstate System which shall consist of (1) full access control; (2) a pavement design to accommodate the types and volumes of traffic anticipated for the twenty-year period from date of authorization of the initial basic construction contract; (3) essential environmental requirements; (4) a design of not more than six lanes (exclusive of high occupancy vehicle lanes) in rural areas and all urbanized areas under four hundred thousand population, and up to eight lanes (exclusive of high occupancy vehicle lanes) in urbanized areas of four hundred thousand population or more as shown in the 1980 Federal census; and (5) those high occupancy vehicle lanes (including approaches and all directly related facilities) included in the interstate cost estimate for fiscal year 1981. The obligation of funds authorized by this subsection shall be further limited to the actual costs of only those design concepts, locations, geometrics, and other construction features included in the 1981 interstate cost estimate, except in any case where the Secretary of Transportation determines that a provision of Federal law requires a different design, location, geometric, or other construction feature of a type authorized by this subsection. Notwithstanding any other provision of law, including any other provision of this subsection, where a project is to be constructed (1) to provide parking garage ramps in conjunction with high occupancy vehicle lanes which flow into a distributor system emptying directly into ramps for off-street parking with preferential parking for carpools, vanpools, and buses and the ramps are part of an environmental mitigation effort and are designed to feed into an aerial walkway system, or (2) to provide a parking lot near the terminus of an Interstate System spur route which radiates from an Interstate System beltway which will be used as an intermodal transfer facility for a light rail transit project to be constructed in the median of the spur route and the parking lot is part of an environmental mitigation effort, or (3) to provide a parking garage and associated facilities as part of an intermodal transfer facility with a transit system near or within an Interstate System route right-of-way which will have direct and indirect access to the facility by way of local streets and the parking garage and associated facilities are part of an environmental mitigation effort, or (4) to provide for the comprehensive upgrading of existing high occupancy vehicle lanes, new ramps and parking facilities at mass transit intermodal transfer points on an existing Interstate System route which has temporary high occupancy vehicle lanes in the median and the parking facilities and ramps are part of an environmental mitigation effort, the costs of such parking garage ramps,

parking lots, parking garages, associated interchange ramps, high occupancy vehicle lanes, and other associated work eligible under title 23, United States Code, shall be eligible for funds authorized by this subsection as if the costs for these projects were included in the 1981 interstate cost estimate and shall be included as eligible projects in any future interstate cost estimate. For purposes of this subsection, construction necessary to provide a minimum level of acceptable service on the Interstate System shall include, but not be limited to, any construction on the Interstate System which is required under a court order issued before the date of enactment of this sentence. Notwithstanding the fifth sentence of this subsection, the costs of a project which will upgrade an interstate route and will complete a gap on the Interstate System providing access to an international airport and which was described as the preferred alternative in a final environmental impact statement submitted to the Secretary of Transportation on September 30, 1983, shall be eligible for funds authorized by this subsection as if such costs were included in the 1981 interstate cost estimate and shall be included as eligible costs in any future interstate cost estimate, except that (1) such costs may be further developed in the design and environmental process under normal Federal-aid interstate procedures, and (2) the amount of such costs shall not include the portion of the project between High Street and Causeway Street.''

Section 127(b) of Pub. L. 97–424 provided that: ''Notwithstanding the provisions of section 108(b) of the Federal-Aid Highway Act of 1956, as amended [set out above], the Secretary of Transportation may approve the expenditure of funds authorized under such section for the construction of a previously approved project which provides for improvements to and reconstruction of ramps and service roads which are being developed as part of a roadway system to relieve a severely congested segment on an Interstate route. Such expenditures shall be limited (1) to work necessary to provide more effective and safe operation of such Interstate route, and (2) to a section of an Interstate route which proceeded to construction contract prior to the date of enactment of such Act and which Interstate route, together with service roads, was constructed without the expenditure of any funds authorized by such section.''

DEFINITIONS OF ''DEPARTMENT'', ''INTERSTATE SYSTEM'', ''SECRETARY'', AND ''STATE'' FOR PURPOSES OF CERTAIN ACTS

Pub. L. 109–59, § 2, Aug. 10, 2005, 119 Stat. 1153, provided that: ''In this Act [see Tables for classification], the following definitions apply:

''(1) DEPARTMENT.—The term 'Department' means the Department of Transportation.

''(2) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.''

Pub. L. 109–59, title I, § 1120(c), Aug. 10, 2005, 119 Stat. 1192, provided that: ''For the purposes of apportioning funds under sections 104, 105, 130, 144, and 206 of title 23, United States Code, and section 1404 [set out as a note under section 402 of this title], relating to the safe routes to school program, the term 'State' means any of the 50 States and the District of Columbia.''

Pub. L. 105–178, § 2, June 9, 1998, 112 Stat. 111, provided that: ''In this Act [see Tables for classification], the following definitions apply:

''(1) INTERSTATE SYSTEM.—The term 'Interstate System' has the meaning such term has under section 101 of title 23, United States Code.

''(2) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.''

Pub. L. 105–178, title I, § 1103(n), June 9, 1998, 112 Stat. 127, as amended by Pub. L. 105–206, title IX, § 9002(c)(2), July 22, 1998, 112 Stat. 835, provided that: ''For the purposes of apportioning funds under sections 104, 105, 144, and 206 of title 23, United States Code, the term 'State' means any of the 50 States and the District of Columbia.''

Section 2 of Pub. L. 104–59 provided that: ''In this Act [See Short Title of 1995 Amendment note above], the term 'Secretary' means the Secretary of Transportation.''

Section 2 of Pub. L. 100–17 provided that: ''As used in this Act [see Short Title of 1987 Amendment note above], the term 'Secretary' means the Secretary of Transportation.''

§ 102. Program efficiencies

(a) ACCESS OF MOTORCYCLES.—No State or political subdivision of a State may enact or enforce a law that applies only to motorcycles and the principal purpose of which is to restrict the access of motorcycles to any highway or portion of a highway for which Federal-aid highway funds have been utilized for planning, design, construction, or maintenance. Nothing in this subsection shall affect the authority of a State or political subdivision of a State to regulate motorcycles for safety.

(b) ENGINEERING COST REIMBURSEMENT.—If onsite construction of, or acquisition of right-of-way for, a highway project is not commenced within 10 years (or such longer period as the State requests and the Secretary determines to be reasonable) after the date on which Federal funds are first made available, out of the Highway Trust Fund (other than Mass Transit Account), for preliminary engineering of such project, the State shall pay an amount equal to the amount of Federal funds made available for such engineering. The Secretary shall deposit in such Fund all amounts paid to the Secretary under this section.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 887; Pub. L. 102–240, title I, § 1016(a), Dec. 18, 1991, 105 Stat. 1945; Pub. L. 105–178, title I, §§ 1206, 1209, 1212(a)(2)(A)(i), 1304, June 9, 1998, 112 Stat. 185, 186, 193, 227; Pub. L. 109–59, title I, § 1121(b)(1), Aug. 10, 2005, 119 Stat. 1195.)

AMENDMENTS

2005—Pub. L. 109–59 redesignated subsecs. (b) and (c) as (a) and (b), respectively, and struck out heading and text of former subsec. (a). Text read as follows:

''(1) IN GENERAL.—A State transportation department shall establish the occupancy requirements of vehicles operating in high occupancy vehicle lanes; except that no fewer than 2 occupants per vehicle may be required and, subject to section 163 of the Surface Transportation Assistance Act of 1982, motorcycles and bicycles shall not be considered single occupant vehicles.

''(2) EXCEPTION FOR INHERENTLY LOW-EMISSION VEHICLES.—Notwithstanding paragraph (1), before September 30, 2003, a State may permit a vehicle with fewer than 2 occupants to operate in high occupancy vehicle lanes if the vehicle is certified as an Inherently Low-Emission Vehicle pursuant to title 40, Code of Federal Regulations, and is labeled in accordance with, section 88.312–93(c) of such title. Such permission may be revoked by the State should the State determine it necessary.''

1998—Subsec. (a). Pub. L. 105–178, § 1209, designated existing provisions as par. (1), inserted heading, realigned margins, and added par. (2).

Subsec. (a)(1). Pub. L. 105–178, § 1212(a)(2)(A)(i), substituted ''State transportation department'' for ''State highway department''.

Subsec. (b). Pub. L. 105–178, § 1206, added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 105–178, § 1304, which directed insertion of ''(or such longer period as the State requests and the Secretary determines to be reasonable)'' after ''10 years'' in first sentence of subsec. (b), was executed by making the insertion in first sentence of subsec. (c) to reflect the probable intent of Congress and the amendment by Pub. L. 105–178, § 1206. See below.

Pub. L. 105–178, § 1206, redesignated subsec. (b) as (c).

1991—Pub. L. 102–240 substituted section catchline for one which read: ''Authorizations'' and amended text generally. Prior to amendment, text read as follows: ''The provisions of this title apply to all unappropriated authorizations contained in prior Acts, and also to all unexpended appropriations, heretofore made, providing for the expenditure of Federal funds upon the Federal-aid systems. All such authorizations and appropriations shall continue in full force and effect, but hereafter obligations entered into and expenditures made pursuant thereto shall be subject to the provisions of this title.''

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

§ 103. Federal-aid systems

(a) IN GENERAL.—For the purposes of this title, the Federal-aid systems are the Interstate System and the National Highway System.

(b) NATIONAL HIGHWAY SYSTEM.—

(1) DESCRIPTION.—The National Highway System consists of the highway routes and connections to transportation facilities depicted on the map submitted by the Secretary to Congress with the report entitled ''Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals'' and dated May 24, 1996. The system shall—

(A) serve major population centers, international border crossings, ports, airports, public transportation facilities, and other intermodal transportation facilities and other major travel destinations;

(B) meet national defense requirements; and

(C) serve interstate and interregional travel.

(2) COMPONENTS.—The National Highway System described in paragraph (1) consists of the following:

(A) The Interstate System described in subsection (c).

(B) Other urban and rural principal arterial routes.

(C) Other connector highways (including toll facilities) that provide motor vehicle access between arterial routes on the National Highway System and a major intermodal transportation facility.

(D) A strategic highway network consisting of a network of highways that are important to the United States strategic defense policy and that provide defense access, continuity, and emergency capabilities for the movement of personnel, materials, and equipment in both peacetime and wartime. The highways may be highways on or off the Interstate System and shall be designated by the Secretary in consultation with appropriate Federal agencies and the States.

(E) Major strategic highway network connectors consisting of highways that provide motor vehicle access between major military installations and highways that are part of the strategic highway network. The highways shall be designated by the Secretary in consultation with appropriate Federal agencies and the States.

(3) MAXIMUM MILEAGE.—The mileage of highways on the National Highway System shall not exceed 178,250 miles.

(4) MODIFICATIONS TO NHS.—

(A) IN GENERAL.—The Secretary may make any modification, including any modification consisting of a connector to a major intermodal terminal, to the National Highway System that is proposed by a State or that is proposed by a State and revised by the Secretary if the Secretary determines that the modification—

(i) meets the criteria established for the National Highway System under this title; and

(ii) enhances the national transportation characteristics of the National Highway System.

(B) COOPERATION.—

(i) IN GENERAL.—In proposing a modification under this paragraph, a State shall cooperate with local and regional officials.

(ii) URBANIZED AREAS.—In an urbanized area, the local officials shall act through the metropolitan planning organization designated for the area under section 134.

(5) CONGRESSIONAL HIGH PRIORITY CORRIDORS.—Upon the completion of feasibility studies, the Secretary shall add to the National Highway System any congressional high priority corridor or any segment of such a corridor established by section 1105 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2031 et seq.) that was not identified on the National Highway System described in paragraph (1).

(6) STATE ELIGIBLE PROJECTS FOR NHS.—Subject to approval by the Secretary, funds apportioned to a State under section 104(b)(1) for the National Highway System may be obligated for any of the following:

(A) Construction, reconstruction, resurfacing, restoration, and rehabilitation of segments of the National Highway System.

(B) Operational improvements for segments of the National Highway System.

(C) Construction of, and operational improvements for, a Federal-aid highway not on the National Highway System, and construction of a transit project eligible for assistance under chapter 53 of title 49, if—

(i) the highway or transit project is in the same corridor as, and in proximity to, a fully access-controlled highway designated as a part of the National Highway System;

(ii) the construction or improvements will improve the level of service on the fully access-controlled highway described in clause (i) and improve regional traffic flow; and

(iii) the construction or improvements are more cost-effective than an improvement to the fully access-controlled highway described in clause (i).

(D) Highway safety improvements for segments of the National Highway System.

(E) Transportation planning in accordance with sections 134 and 135.

(F) Highway research and planning in accordance with chapter 5.

(G) Highway-related technology transfer activities.

(H) Capital and operating costs for traffic monitoring, management, and control facilities and programs.

(I) Fringe and corridor parking facilities.

(J) Carpool and vanpool projects.

(K) Bicycle transportation and pedestrian walkways in accordance with section 217.

(L) Development, establishment, and implementation of management systems under section 303.

(M) In accordance with all applicable Federal law (including regulations), participation in natural habitat and wetland mitigation efforts related to projects funded under this title, which may include participation in natural habitat and wetland mitigation banks, contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetland, and development of statewide and regional natural habitat and wetland conservation and mitigation plans, including any such banks, efforts, and plans authorized under the Water Resources Development Act of 1990 (Public Law 101–640) (including crediting provisions). Contributions to the mitigation efforts described in the preceding sentence may take place concurrent with or in advance of project construction; except that contributions in advance of project construction may occur only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes. With respect to participation in a natural habitat or wetland mitigation effort related to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference shall be given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605 (November 28, 1995)) or other applicable Federal law (including regulations).

(N) Publicly-owned intracity or intercity bus terminals.

(O) Infrastructure-based intelligent transportation systems capital improvements.

[(P) Repealed. Pub. L. 109–59, title I, §1118(b)(1)(B), Aug. 10, 2005, 119 Stat. 1181.]

(Q) Environmental restoration and pollution abatement in accordance with section 328.

(R) Control of noxious weeds and aquatic noxious weeds and establishment of native species in accordance with section 329.

(7) TERRITORY ELIGIBLE PROJECTS.—Subject to approval by the Secretary, funds set aside for this program under section 104(b)(1) for the National Highway System may be obligated for projects eligible for assistance under the territorial highway program under section 215.

(c) INTERSTATE SYSTEM.—

(1) DESCRIPTION.—

(A) IN GENERAL.—The Dwight D. Eisenhower National System of Interstate and Defense Highways within the United States (including the District of Columbia and Puerto Rico) consists of highways designed, located, and selected in accordance with this paragraph.

(B) DESIGN.—

(i) IN GENERAL.—Except as provided in clause (ii), highways on the Interstate System shall be designed in accordance with the standards of section 109(b).

(ii) EXCEPTION.—Highways on the Interstate System in Alaska and Puerto Rico shall be designed in accordance with such geometric and construction standards as are adequate for current and probable future traffic demands and the needs of the locality of the highway.

(C) LOCATION.—Highways on the Interstate System shall be located so as—

(i) to connect by routes, as direct as practicable, the principal metropolitan areas, cities, and industrial centers;

(ii) to serve the national defense; and

(iii) to the maximum extent practicable, to connect at suitable border points with routes of continental importance in Canada and Mexico.

(D) SELECTION OF ROUTES.—To the maximum extent practicable, each route of the Interstate System shall be selected by joint action of the State transportation departments of the State in which the route is located and the adjoining States, in cooperation with local and regional officials, and subject to the approval of the Secretary.

(2) MAXIMUM MILEAGE.—The mileage of highways on the Interstate System shall not exceed 43,000 miles, exclusive of designations under paragraph (4).

(3) MODIFICATIONS.—The Secretary may approve or require modifications to the Interstate System in a manner consistent with the policies and procedures established under this subsection.

(4) INTERSTATE SYSTEM DESIGNATIONS.—

(A) ADDITIONS.—If the Secretary determines that a highway on the National Highway System meets all standards of a highway on the Interstate System and that the highway is a logical addition or connection to the Interstate System, the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a route on the Interstate System.

(B) DESIGNATIONS AS FUTURE INTERSTATE SYSTEM ROUTES.—

(i) IN GENERAL.—If the Secretary determines that a highway on the National Highway System would be a logical addition or connection to the Interstate System and would qualify for designation as a

route on the Interstate System under subparagraph (A) if the highway met all standards of a highway on the Interstate System, the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a future Interstate System route.

(ii) WRITTEN AGREEMENT OF STATES.—A designation under clause (i) shall be made only upon the written agreement of the State or States described in such clause that the highway will be constructed to meet all standards of a highway on the Interstate System by the date that is 25 years after the date of the agreement.

(iii) REMOVAL OF DESIGNATION.—

(I) IN GENERAL.—If the State or States described in clause (i) have not substantially completed the construction of a highway designated under this subparagraph within the time provided for under clause (ii), the Secretary shall remove the designation of the highway as a future Interstate System route.

(II) EFFECT OF REMOVAL.—Removal of the designation of a highway under subclause (I) shall not preclude the Secretary from designating the highway as a route on the Interstate System under subparagraph (A) or under any other provision of law providing for addition to the Interstate System.

(III) EXISTING AGREEMENTS.—An agreement described in clause (ii) that is entered into before the date of enactment of this subclause shall be deemed to include the 25-year time limitation described in that clause, regardless of any earlier construction completion date in the agreement.

(iv) PROHIBITION ON REFERRAL AS INTERSTATE SYSTEM ROUTE.—No law, rule, regulation, map, document, or other record of the United States, or of any State or political subdivision of a State, shall refer to any highway designated as a future Interstate System route under this subparagraph, nor shall any such highway be signed or marked, as a highway on the Interstate System until such time as the highway is constructed to the geometric and construction standards for the Interstate System and has been designated as a route on the Interstate System.

(C) FINANCIAL RESPONSIBILITY.—Except as provided in this title, the designation of a highway under this paragraph shall create no additional Federal financial responsibility with respect to the highway.

(5) EXEMPTION OF INTERSTATE SYSTEM.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Interstate System shall not be considered to be a historic site under section 303 of title 49 or section 138 of this title, regardless of whether the Interstate System or portions or elements of the Interstate System are listed on, or eligible for listing on, the National Register of Historic Places.

(B) INDIVIDUAL ELEMENTS.—Subject to subparagraph (C), the Secretary shall determine, through the administrative process established for exempting the Interstate System from section 106 of the National Historic Preservation Act (16 U.S.C. 470f), those individual elements of the Interstate System that possess national or exceptional historic significance (such as a historic bridge or a highly significant engineering feature). Such elements shall be considered to be a historic site under section 303 of title 49 or section 138 of this title, as applicable.

(C) CONSTRUCTION, MAINTENANCE, RESTORATION, AND REHABILITATION ACTIVITIES.—Subparagraph (B) does not prohibit a State from carrying out construction, maintenance, restoration, or rehabilitation activities for a portion of the Interstate System referred to in subparagraph (B) upon compliance with section 303 of title 49 or section 138 of this title, as applicable, and section 106 of the National Historic Preservation Act (16 U.S.C. 470f).

(d) TRANSFER OF INTERSTATE CONSTRUCTION FUNDS.—

(1) INTERSTATE CONSTRUCTION FUNDS NOT IN SURPLUS.—

(A) IN GENERAL.—Upon application by a State and approval by the Secretary, the Secretary may transfer to the apportionment of the State under section 104(b)(1) any amount of funds apportioned to the State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century), if the amount does not exceed the Federal share of the costs of construction of segments of the Interstate System in the State included in the most recent Interstate System cost estimate.

(B) EFFECT OF TRANSFER.—Upon transfer of an amount under subparagraph (A), the construction on which the amount is based, as included in the most recent Interstate System cost estimate, shall not be eligible for funding under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) or 118(c).

(2) SURPLUS INTERSTATE CONSTRUCTION FUNDS.—Upon application by a State and approval by the Secretary, the Secretary may transfer to the apportionment of the State under section 104(b)(1) any amount of surplus funds apportioned to the State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century), if the State has fully financed all work eligible under the most recent Interstate System cost estimate.

(3) APPLICABILITY OF CERTAIN LAWS.—Funds transferred under this subsection shall be subject to the laws (including regulations, policies, and procedures) relating to the apportionment to which the funds are transferred.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 887; Pub. L. 86–70, § 21(d)(1), June 25, 1959, 73 Stat. 145; Pub. L. 86–624, § 17(b), (c), July 12, 1960, 74 Stat. 415; Pub. L. 87–866, § 8(a), Oct. 23, 1962, 76 Stat. 1147; Pub.

L. 90–238, Jan. 2, 1968, 81 Stat. 772; Pub. L. 90–495, §§ 14, 21, Aug. 23, 1968, 82 Stat. 822, 826; Pub. L. 91–605, title I, §§ 106(b), 124, Dec. 31, 1970, 84 Stat. 1716, 1729; Pub. L. 93–87, title I, §§ 109(a), 110(a), (b), 137, 148(a)–(c), (e), Aug. 13, 1973, 87 Stat. 255, 256, 268, 274; Pub. L. 93–643, § 125, Jan. 4, 1975, 88 Stat. 2290; Pub. L. 94–280, title I, §§ 109, 110, 111(a), May 5, 1976, 90 Stat. 431, 433; Pub. L. 95–599, title I, § 107(a), (b), (f)(1), Nov. 6, 1978, 92 Stat. 2694, 2695; Pub. L. 96–106, §§ 1, 2(a), (c), Nov. 9, 1979, 93 Stat. 796; Pub. L. 96–144, § 2, Dec. 13, 1979, 93 Stat. 1084; Pub. L. 97–424, title I, §§ 107(a)–(c)(1), (d), (e), 108(f), Jan. 6, 1983, 96 Stat. 2101–2104; Pub. L. 100–17, title I, § 103(b), (f)(1), Apr. 2, 1987, 101 Stat. 136, 141; Pub. L. 102–240, title I, §§ 1006(a), (b), (d), 1011, title III, § 3003(b), Dec. 18, 1991, 105 Stat. 1923, 1925, 1935, 2088; Pub. L. 103–272, § 5(f)(1), July 5, 1994, 108 Stat. 1374; Pub. L. 103–429, §§ 3(1), 7(a)(4)(B), Oct. 31, 1994, 108 Stat. 4377, 4389; Pub. L. 104–59, title I, § 101, title III, § 301(a), Nov. 28, 1995, 109 Stat. 569, 578; Pub. L. 104–287, § 2, Oct. 11, 1996, 110 Stat. 3388; Pub. L. 105–178, title I, § 1106(b), June 9, 1998, 112 Stat. 131; Pub. L. 109–59, title I, §§ 1106, 1118(b)(1), title VI, §§ 6006(a)(1), 6007, Aug. 10, 2005, 119 Stat. 1166, 1181, 1872, 1873.)

REFERENCES IN TEXT

Section 1105 of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (b)(5), is section 1105 of Pub. L. 102–240, which amended section 105 of this title and enacted provisions establishing high priority corridors and segments, which are not classified to the Code.

The Water Resources Development Act of 1990, referred to in subsec. (b)(6)(M), is Pub. L. 101–640, Nov. 28, 1990, 104 Stat. 4604. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 2201 of Title 33, Navigation and Navigable Waters, and Tables.

The date of enactment of this subclause, referred to in subsec. (c)(4)(B)(iii)(III), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

The date of enactment of the Transportation Equity Act for the 21st Century, referred to in subsec. (d)(1), (2), is the date of enactment of Pub. L. 105–178, which was approved June 9, 1998.

CODIFICATION

Another section 1106(b) of Pub. L. 105–178 is set out as a note below.

AMENDMENTS

2005—Subsec. (b)(6). Pub. L. 109–59, § 1118(b)(1)(A), substituted ''STATE ELIGIBLE'' for ''ELIGIBLE'' in heading.

Subsec. (b)(6)(P). Pub. L. 109–59, § 1118(b)(1)(B), struck out subpar. (P) which read as follows: ''In the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, any project eligible for assistance under section 133, any airport, and any seaport.''

Subsec. (b)(6)(Q), (R). Pub. L. 109–59, § 6006(a)(1), added subpars. (Q) and (R).

Subsec. (b)(7). Pub. L. 109–59, § 1118(b)(1)(C), added par. (7).

Subsec. (c)(4)(B)(ii). Pub. L. 109–59, § 1106(a), substituted ''25'' for ''12''.

Subsec. (c)(4)(B)(iii)(I). Pub. L. 109–59, § 1106(b)(1), struck out ''in the agreement between the Secretary and the State or States'' before ''under clause (ii)''.

Subsec. (c)(4)(B)(iii)(III). Pub. L. 109–59, § 1106(b)(2), added subcl. (III).

Subsec. (c)(5). Pub. L. 109–59, § 6007, added par. (5).

1998—Pub. L. 105–178 reenacted section catchline without change and amended text generally. Prior to amendment, section related to Federal-aid systems and, in subsec. (a), identified such systems, in subsec. (b), described National Highway System, in subsec. (e), described Interstate Highway System, in subsec. (f), specified authority of Secretary with respect to system, in subsec. (g), provided for removal of certain parts from system, in subsec. (h), authorized Secretary to pay all non-Federal costs of certain parts of system, and in subsec. (i), described eligible projects for National Highway System.

1996—Subsec. (e)(4)(L). Pub. L. 104–287 substituted ''CHAPTER 53 OF TITLE 49'' for ''FTA'' in heading.

1995—Subsec. (b)(3)(C). Pub. L. 104–59, § 101(b)(1), substituted ''The'' for ''For purposes of proposing highways for designation to the National Highway System, the''.

Subsec. (b)(3)(D). Pub. L. 104–59, § 101(b)(2), substituted ''The'' for ''In proposing highways for designation to the National Highway System, the'' and inserted ''on the National Highway System'' after ''highway mileage''.

Subsec. (b)(5) to (8). Pub. L. 104–59, § 101(a), added pars. (5) to (8).

Subsec. (i)(8). Pub. L. 104–59, § 301(a), added par. (8) and struck out former par. (8) which read as follows: ''Startup costs for traffic management and control if such costs are limited to the time period necessary to achieve operable status but not to exceed 2 years following the date of project approval, if such funds are not used to replace existing funds.''

1994—Subsec. (e)(4)(L)(i). Pub. L. 103–272, § 5(f)(1)(A), as amended by Pub. L. 103–429, § 7(a)(4)(B), substituted ''chapter 53 of title 49'' for ''the Federal Transit Act''.

Subsec. (e)(4)(L)(ii). Pub. L. 103–272, § 5(f)(1)(B), as amended by Pub. L. 103–429, § 7(a)(4)(B), substituted ''section 5323(a)(1)(D) of title 49'' for ''section 3(e)(4) of the Federal Transit Act''.

Subsec. (i)(3). Pub. L. 103–429, § 3(1), substituted ''chapter 53 of title 49'' for ''the Federal Transit Act''.

1991—Subsec. (a). Pub. L. 102–240, § 1006(a), added subsec. (a) and struck out former subsec. (a) which established and continued four Federal-aid systems: primary, urban, secondary and Interstate.

Subsec. (b). Pub. L. 102–240, § 1006(a), added subsec. (b) and struck out former subsec. (b) which related to Federal-aid primary system.

Subsecs. (c), (d). Pub. L. 102–240, § 1006(b)(1), struck out subsecs. (c) and (d) which related to Federal-aid secondary system and Federal-aid urban system, respectively.

Subsec. (e)(4)(E)(i). Pub. L. 102–240, § 1011(c), inserted provisions at end specifying that funds authorized to be appropriated for substitute transit projects for fiscal year 1993 and for substitute highway projects for fiscal year 1995 are to remain available until expended.

Subsec. (e)(4)(G). Pub. L. 102–240, § 1011(a)(1), struck out ''and'' before ''$740,000,000'', inserted provisions relating to fiscal years 1992 through 1995 and inserted provisions authorizing obligation of sums for transit substitute projects.

Subsec. (e)(4)(H)(i). Pub. L. 102–240, § 1011(a)(2)(A), inserted provisions at end relating to apportionment of funds for fiscal years 1992 through 1995.

Subsec. (e)(4)(H)(iii). Pub. L. 102–240, § 1011(a)(2)(B), (C), substituted ''1988–1995'' for ''1988, 1989, 1990, and 1991'' in heading and ''1991, 1992, 1993, 1994, and 1995'' for ''and 1991'' in text.

Subsec. (e)(4)(I). Pub. L. 102–240, § 3003(b), substituted ''Federal Transit Act'' for ''Urban Mass Transportation Act of 1964''.

Subsec. (e)(4)(J)(i). Pub. L. 102–240, § 1011(b)(1), (2), inserted ''and ending before October 1, 1991'' after ''1983,'' and provisions at end relating to apportionment of 100 percent of funds appropriated for fiscal years 1992 and 1993.

Subsec. (e)(4)(J)(iii). Pub. L. 102–240, § 1011(b)(3), (4), substituted ''1988–1993'' for ''1988, 1989, 1990, and 1991'' in heading and substituted ''1991, 1992, and 1993'' for ''and 1991'' in text.

Subsec. (e)(4)(L). Pub. L. 102–240, § 3003(b), substituted ''FTA'' for ''UMTA'' in heading and ''Federal Transit

Act'' for ''Urban Mass Transportation Act of 1964'' in cls. (i) and (ii).

Subsec. (f). Pub. L. 102–240, § 1006(b)(2), struck out ''the Federal-aid primary system, the Federal-aid secondary system, the Federal-aid urban system, and'' before ''the Interstate System'' and struck out at end ''No Federal-aid system or portion thereof shall be eligible for projects in which Federal funds participate until approved by the Secretary.''

Subsec. (i). Pub. L. 102–240, § 1006(d), added subsec. (i).

1987—Subsec. (e). Pub. L. 100–17, § 103(f)(1)(A)–(D), (H)–(J), inserted heading, indented par. (1) and aligned such par. and pars. (2), (3), and (5) to (9) with par. (4), as amended, and inserted headings for pars. (1) to (3), (8), and (9).

Subsec. (e)(4). Pub. L. 100–17, § 103(b), amended par. (4) generally, revising and restating as subpars. (A) to (P) provisions formerly contained in a single paragraph.

Subsec. (e)(5). Pub. L. 100–17, § 103(f)(1)(E), (K), inserted heading, aligned subpars. (A) and (B) with subpar. (A) of par. (4), and substituted ''withdrawal of approval.'' for ''withdrawal of approval; and'' in subpar. (B).

Subsec. (e)(6). Pub. L. 100–17, § 103(f)(1)(F), (K), inserted heading, aligned subpars. (A) and (B) with subpar. (A) of par. (4), and substituted ''withdrawal of approval.'' for ''withdrawal of approval;'' in subpar. (B).

Subsec. (e)(7). Pub. L. 100–17, § 103(f)(1)(G), inserted heading and substituted ''are to be applied.'' for ''are to be applied; and''.

1983—Subsec. (b)(1). Pub. L. 97–424, § 108(f), substituted ''Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands'' for ''or Puerto Rico'' after ''Hawaii, Alaska,''.

Subsec. (e)(4). Pub. L. 97–424, § 107(a)(1), struck out eighth sentence and substituted provision relating to authorizations and apportionment of funds for fiscal years ending Sept. 30, 1983, through Sept. 30, 1986, and relating to substitute highway projects and substitute transit projects for provision that there were authorized to be appropriated for liquidation of the obligations incurred under this paragraph such sums as might be necessary out of the general fund of the Treasury.

Pub. L. 97–424, § 107(a)(2), struck out sixth sentence and substituted provisions relating to the period of availability of sums apportioned under this paragraph and of sums available for obligation and the disposition of funds apportioned to a State and unobligated for provision that the sums available for obligation would remain available until obligated.

Pub. L. 97–424, § 107(b), inserted at end provision that any route or segment thereof which was statutorily designed after March 7, 1978, to be on the Interstate System shall not be eligible for withdrawal or substitution under this subsection.

Pub. L. 97–424, § 107(c)(1)(A), inserted ''or up to and including the 1983 interstate cost estimate, whichever is earlier,'' after ''approved by Congress,'' and before ''subject to increase or decrease'' in provision in second sentence relating to the action of the Secretary in withdrawing his approval under this paragraph.

Pub. L. 97–424, § 107(c)(1)(B), struck out ''the date of enactment of the Federal-Aid Highway Act of 1976 or'' after ''portion thereof as of'', and ''whichever is later, and in accordance with the design of the route or portion thereof that is the basis of the latest cost estimate'' after ''substitute project under this paragraph,'' in provision in second sentence relating to the action of the Secretary in withdrawing his approval under this paragraph.

Pub. L. 97–424, § 107(c)(1)(C), inserted ''or the date of approval of the 1983 interstate cost estimate, whichever is earlier,'' after ''approval of each substitute project under this paragraph'' in provision in second sentence relating to the action of the Secretary in withdrawing his approval under this paragraph.

Pub. L. 97–424, § 107(d), inserted provision in third sentence that except with respect to any route which on May 12, 1982, is under judicial injunction prohibiting its construction the Secretary may approve substitute projects and withdrawals on such route until Sept. 30, 1985.

Pub. L. 97–424, § 107(e)(1), struck out ''which is within an urbanized area or which passes through and connects urbanized areas within a State and'' after ''portion thereof on the Interstate System'' in first sentence.

Pub. L. 97–424, § 107(e)(2), substituted ''which will serve the area or areas from which the interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the area or areas to be served, and which are selected by the Governor or the Governors of the State or the States in which the withdrawn route was located if the withdrawn route was not within an urbanized area or did not pass through and connect urbanized areas, and which are submitted by the Governors of the States in which the withdrawn route was located'', for ''which will serve the urbanized area and the connecting nonurbanized area corridor from which the interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the urbanized area or area to be served, and which are submitted by the Governor of the State in which the withdrawn route was located'', after ''section 103 of this title; or both,'' in second sentence.

1979—Subsec. (e)(4). Pub. L. 96–144 provided that after Sept. 30, 1979, the Secretary shall not withdraw his approval under par. (4) of any route or portion thereof on the Interstate System open to traffic before the date of the proposed withdrawal, and that any withdrawal of approval of any such route or portion thereof before Sept. 30, 1979, is determined to be authorized by par. (4).

Pub. L. 96–106, § 1, inserted provision that the preceding sentence not apply to a designation made under section 139 of this title.

Subsec. (e)(5). Pub. L. 96–106, § 2(a), inserted '', in the case of any withdrawal of approval before November 6, 1978'' after ''any other provision of law''.

Subsec. (e)(6) to (9). Pub. L. 96–106, § 2(c), added pars. (6) and (7) and redesignated former pars. (6) and (7) as (8) and (9), respectively.

1978—Subsec. (e)(2). Pub. L. 95–599, § 107(a)(1), substituted provisions relating to the deadline for designation of Interstate routes for provisions relating to maximum costs of all mileage and granting of preferences.

Subsec. (e)(4). Pub. L. 95–599, § 107(a)(2), (b), (f)(1)(A), substituted provision setting the maximum Federal share at 85 per cent of the cost of the substitute project for provision stating that the share would be determined in accordance with section 120 of this title, inserted provisions relating to deadline for approval by Secretary and designation of mileage, and struck out provision relating to withdrawal of approval.

Subsec. (e)(5) to (7). Pub. L. 95–599, § 107(f)(1)(B), (C), redesignated par. (5) as (7) and added pars. (5) and (6).

1976—Subsec. (e)(2). Pub. L. 94–280, §§ 109(a), 111(a), struck out from second sentence ''prior to the enactment of this paragraph'' after ''with this title,'' and in fourth sentence, substituted provision respecting limitation of cost to United States for aggregate of mileage for route withdrawals which read as follows: ''or if the cost of any such withdrawn route was not included in such 1972 Interstate System cost estimate, the cost of such withdrawn route as set forth in the last Interstate System cost estimate before such 1972 cost estimate which was approved by Congress and which included the cost of such withdrawn route, increased or decreased, as the case may be, as determined by the Secretary, based on changes in construction costs of such route or portion thereof, which, (i) in the case of a withdrawn route the cost of which was not included in the 1972 cost estimate but in an earlier cost estimate, have occurred between such earlier cost estimate and the date of enactment of the Federal-Aid Highway Act of 1976, and (ii) in the case of a withdrawn route the cost of which was included in the 1972 cost estimate, have occurred between the 1972 cost estimate and the date of enactment of the Federal-Aid Highway Act of

1976, or the date of withdrawal of approval, whichever date is later, and in each case costs shall be based on that design of such route or portion thereof which is the basis of the applicable cost estimate'' for ''increased or decreased, as the case may be, as determined by the Secretary, based on changes in construction costs of such route or portion thereof as of the date of withdrawal of approval under this paragraph and in accordance with that design of such route or portion thereof which is the basis of such 1972 cost estimate.''

Subsec. (e)(4). Pub. L. 94–280, §110(a), in revising par. (4), substituting provisions set out in text for prior provisions set out in note hereunder, among other changes: authorized the Secretary to withdraw approval of route or portion thereof on Interstate System which passes through and connects urbanized areas within a State and to incur obligations for Federal share of projects authorized under any highway assistance program under section 103 of this title; provided for determination of Federal share of substitute projects as provided in section 120 of this title applicable to the highway program of which the substitute project is a part; made specific reference to section 4 of, for prior general reference to, Urban Mass Transportation Act of 1964, as source of Federal share for mass transit projects; authorized sums available for obligation to remain available until obligated; made sums obligated for mass transit projects part of, to be administered through, Urban Mass Transportation Fund; authorized appropriations out of general fund of the Treasury for liquidation of obligations incurred under this paragraph; made amended par. (4) effective Aug. 13, 1973; and deleted provisions making route withdrawn mileage available for designation on Interstate System in any other State, prohibition against obligation under this paragraph of general funds after June 30, 1981, and requirement that for nonhighway public mass transit project, the Secretary receive State assurance that public mass transportation system will fully utilize the proposed project.

Pub. L. 94–280, §110(b), inserted provision for application of sums to a permissible transportation project when paid to a State for a route or portion of the Interstate System in event of withdrawal of approval for the route or portion instead of making of refund to Highway Trust Fund.

Subsec. (e)(5). Pub. L. 94–280, §109(b), added par. (5).

1975—Subsec. (e)(2), (4). Pub. L. 93–643 inserted '', increased or decreased, as the case may be, as determined by the Secretary, based on changes in construction costs of such route or portion thereof as of the date of withdrawal of approval under this paragraph and in accordance with that design of such route or portion thereof which is the basis of such 1972 cost estimate'' after ''House Report Numbered 92–1443''.

1973—Subsec. (b). Pub. L. 93–87, §148(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 93–87, §148(b), (e), designated existing provisions as par. (1), inserted ''access roads to airports,'' after ''local rural roads'', and added par. (2).

Subsec. (d)(1). Pub. L. 93–87, §§109(a), 148(c), authorized establishment of Federal-aid urban system in such other urban areas as the State highway department may designate, substituted ''shall include high traffic volume arterial and collector routes, including access roads to airports and other transportation terminals'' for ''designed taking into consideration the highest traffic volume corridors, and the longest trips within such area and shall be selected so as to best serve the goals and objectives of the community as determined by the responsible local officials of such urbanized area based upon the planning process required pursuant to the provisions of section 134 of this title'', reenacted third sentence without change, inserted ''to the extent feasible'' in the text reading ''Each route of the system to the extent feasible shall connect with another route'', substituted ''Routes . . . shall be selected by the appropriate local officials so as to serve the goals and objectives of the community, with the concurrence of the State highway departments, and, in urbanized areas, also in accordance with the planning process under section 134 of this title'' for ''Routes . . . shall be selected by the appropriate local officials and the State highway departments in cooperation with each other subject to the approval of the Secretary as provided in subsection (f) of this section'', and inserted preceding last sentence ''Designation of the Federal-aid urban system shall be subject to the approval of the Secretary as provided in subsection (f) of this section'', and designated provisions, as amended, as par. (1), respectively.

Subsec. (d)(2). Pub. L. 93–87, §148(c), added par. (2).

Subsec. (e)(2). Pub. L. 93–87, §137(a), substituted in first sentence ''additional mileage for the Interstate System of five hundred miles'' for ''additional mileage for the Interstate System of two hundred miles''; in fourth sentence ''1972 Interstate System cost estimate set forth in House Public Works Committee Print Numbered 92–29, as revised in House Report Numbered 92–1443'' for ''1968 Interstate System cost estimate set forth in House Document Numbered 199, Ninetieth Congress, as revised''; and in fifth sentence ''preference, along with due regard for interstate highway type needs on a nationwide basis,'' for ''due regard'', respectively.

Subsec. (e)(4). Pub. L. 93–87, §137(b), added par. (4).

Subsec. (g). Pub. L. 93–87, §110(a), substituted first sentence reading ''the Secretary, on July 1, 1974, shall remove from designation as a part of the Interstate System each segment of such system for which a State has not notified the Secretary that such State intends to construct such segment, and which the Secretary finds is not essential to completion of a unified and connected Interstate System.'' for ''The Secretary, on July 1, 1973, shall remove from designation as a part of the Interstate System every segment of such System for which a State has not established a schedule for the expenditure of funds for completion of construction of such segment within the period of availability of funds authorized to be appropriated for completion of the Interstate System, and with respect to which the State has not provided the Secretary with assurances satisfactory to him that such schedule will be met.''; deleted former second sentence reading ''Nothing in the preceding sentence shall be construed to prohibit the substitution prior to July 1, 1973, of alternative segments of the Interstate System which will meet the requirements of this title.''; substituted ''Any segment of the Interstate System, with respect to which a State has not submitted by July 1, 1975, a schedule for the expenditure of funds for completion of construction of such segment or alternative segment within the period of availability of funds authorized to be appropriated for completion of the Interstate System, and with respect to which the State has not provided the Secretary with assurances satisfactory to him such schedule will be met,'' for ''Any segment of the Interstate System with respect to which a State has not submitted plans, specifications, and estimates for approval by the Secretary by July 1, 1975,'' before ''shall be removed from designation as a part of the Interstate System''; authorized the Secretary to designate as a part of the Interstate System any segment previously removed from the System when necessary in the interest of national defense or for other reasons of national interest; and made subsec. (g) inapplicable to any segment of the Interstate System referred to in section 23(a) of the Federal-Aid Highway Act of 1968.

Subsec. (h). Pub. L. 93–87, §110(b), added subsec. (h).

1970—Subsec. (a). Pub. L. 91–605, §106(b)(3), substituted ''four'' for ''three'' and added the urban system to the list of Federal-aid systems.

Subsecs. (b), (c). Pub. L. 91–605, §106(b)(1), substituted ''subsection (f)'' for ''subsection (e)''.

Subsecs. (d), (e). Pub. L. 91–605, §106(b)(1), added subsec. (d), redesignated former subsec. (d) as (e) and substituted ''subsection (f)'' for ''subsection (e)''. Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 91–605, §106(b)(1), (2), redesignated former subsec. (e) as (f) and inserted reference to Federal-aid urban system.

Subsec. (g). Pub. L. 91–605, § 124, added subsec. (g).

1968—Subsec. (d)(1). Pub. L. 90–495, § 14(a), inserted provision making allowance for an exception in pars. (2) and (3) to the forty-one thousand mile total extent of the Interstate system.

Subsec. (d)(2). Pub. L. 90–495, § 21, substituted ''1968 Interstate System cost estimate set forth in House Document Numbered 199, Ninetieth Congress, as revised'' for ''1965 Interstate System cost estimate set forth in House Document Numbered 42, Eighty-ninth Congress''.

Subsec. (d)(3). Pub. L. 90–495, § 14(b), added par. (3).

Subsec. (d). Pub. L. 90–238 redesignated existing provision as par. (1) and added par. (2).

1962—Subsec. (c). Pub. L. 87–866 substituted ''This system may be located both in rural and urban areas, but any extension of the system into urban areas shall be subject to the condition that such extension pass through the urban area or connect with another Federal-aid system within the urban area'' for ''This system shall be confined to rural areas, except (1) that in any State having a population density of more than two hundred per square mile as shown by the latest available Federal census, the system may include mileage in urban areas as well as rural, and (2) that the system may be extended into urban areas subject to the conditions that any such extension passes through the urban area or connects with another Federal-aid system within the urban area, and that Federal participation in projects on such extensions is limited to urban funds''.

1960—Subsec. (d). Pub. L. 86–624, § 17(c), substituted ''within the United States, including the District of Columbia, and'' for ''within the continental United States and'', and inserted ''to the greatest extent possible'' in two places.

1959—Subsec. (f). Pub. L. 86–70 repealed subsec. (f) which related to determination of roads in the Territory of Alaska on which Federal-aid funds could be expended.

Subsec. (g). Pub. L. 86–624, § 17(b), repealed subsec. (g) which provided that the systems of highways on which funds apportioned to the Territory of Hawaii under this chapter shall be expended may be determined and agreed upon by the Governor of said Territory and the Secretary.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 7(a) of Pub. L. 103–429 provided in part that the amendment made by that section is effective July 5, 1994.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by sections 1006 and 1011 of Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 107(c) of Pub. L. 95–599 provided that: ''The amendment made by subsection (a) of this section [amending this section] shall apply to each route or portion thereof designated under section 103(e)(2) of title 23, United States Code, before January 1, 1978, the construction of which was not complete on such date, and the Secretary of Transportation shall make such revisions in existing contracts and agreements as may be necessary to carry out this section and the amendment made by subsection (a) of this section.''

Section 107(f)(2) of Pub. L. 95–599, which provided that the amendments made by section 107(f)(1) of Pub. L. 95–599 to this section apply to any withdrawal of approval before Nov. 6, 1978, was repealed by Pub. L. 96–106, § 2(b), Nov. 9, 1979, 93 Stat. 796.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 110(c) of Pub. L. 93–87 provided that: ''The amendments made by subsections (a) and (b) of this section [amending this section] shall take effect June 30, 1973.''

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–495 effective Aug. 23, 1968, see section 37 of Pub. L. 90–495, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 8(b) of Pub. L. 87–866 provided that: ''The amendment made by subsection (a) of this section [amending this section] shall apply to apportionments made before as well as after the date of enactment of this Act [Oct. 23, 1962].''

EFFECTIVE DATE OF 1959 AMENDMENT

Section 21(d) of Pub. L. 86–70 provided that the repeal of subsec. (f) of this section, sections 116(d), 119, and 120(h) of this title, and sections 321a to 321d and 322 to 325 of Title 48, Territories and Insular Possessions, is effective July 1, 1959.

FREIGHT INTERMODAL DISTRIBUTION PILOT GRANT PROGRAM

Pub. L. 109–59, title I, § 1306, Aug. 10, 2005, 119 Stat. 1215, provided that:

''(a) IN GENERAL.—The Secretary [of Transportation] shall establish and implement a freight intermodal distribution pilot grant program.

''(b) PURPOSES.—The purposes of the program established under subsection (a) shall be for the Secretary [of Transportation] to make grants to States—

''(1) to facilitate and support intermodal freight transportation initiatives at the State and local levels to relieve congestion and improve safety; and

''(2) to provide capital funding to address infrastructure and freight distribution needs at inland ports and intermodal freight facilities.

''(c) ELIGIBLE PROJECTS.—Projects for which grants may be made under this section shall help relieve congestion, improve transportation safety, facilitate international trade, and encourage public-private partnership and may include projects for the development and construction of intermodal freight distribution and transfer facilities at inland ports.

''(d) SELECTION PROCESS.—

''(1) APPLICATIONS.—A State (as defined in section 101(a) of title 23, United States Code) shall submit for approval by the Secretary [of Transportation] an application for a grant under this section containing such information as the Secretary may require to receive such a grant.

''(2) PRIORITY.—In selecting projects for grants, the Secretary shall give priority to projects that will—

''(A) reduce congestion into and out of international ports located in the United States;

''(B) demonstrate ways to increase the likelihood that freight container movements involve freight containers carrying goods; and

''(C) establish or expand intermodal facilities that encourage the development of inland freight distribution centers.

''(3) DESIGNATED PROJECTS.—Subject to the provisions of this section, the Secretary shall allocate for each of fiscal years 2005 through 2009, from funds made available to carry out this section, 20 percent of the following amounts for grants to carry out the following projects under this section:

''(A) Short-haul intermodal projects, Oregon, $5,000,000.

''(B) The Georgia Port Authority, $5,000,000.

''(C) The ports of Los Angeles and Long Beach, California, $5,000,000.

''(D) Fairbanks, Alaska, $5,000,000.

''(E) Charlotte Douglas International Airport Freight Intermodal Facility, North Carolina, $5,000,000.

''(F) South Piedmont Freight Intermodal Center, North Carolina, $5,000,000.

''(e) USE OF GRANT FUNDS.—Funds made available to a recipient of a grant under this section shall be used by the recipient for the project described in the application of the recipient approved by the Secretary [of Transportation].

''(f) REPORT.—Not later than 3 years after the date of enactment of this Act [Aug. 10, 2005], the Secretary [of Transportation] shall submit to Congress a report on the results of the pilot program carried out under this section.

''(g) FUNDING.—

''(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $6,000,000 for each of fiscal years 2005 through 2009.

''(2) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of a project under this section shall be determined in accordance with section 120 of such title.

''(h) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects for which grants are made under this section shall be treated as projects on a Federal-aid system under chapter 1 of title 23, United States Code.''

ADMINISTRATION OF NATIONAL HIGHWAY SYSTEM AND INTERSTATE MAINTENANCE PROGRAM

Pub. L. 105–178, title I, §1106(a), June 9, 1998, 112 Stat. 131, provided that: ''The Secretary shall administer the National Highway System program and the Interstate Maintenance program as a combined program for purposes of allowing States maximum flexibility. References in this Act [see Tables for classification] and title 23, United States Code, shall not be affected by such consolidation.''

UNOBLIGATED BALANCES OF INTERSTATE SUBSTITUTE FUNDS

Pub. L. 105–178, title I, §1106(b), June 9, 1998, 112 Stat. 136, provided that: ''Unobligated balances of funds apportioned to a State under section 103(e)(4)(H) of title 23, United States Code (as in effect on the day before the date of enactment of this Act [June 9, 1998]), shall be available for obligation by the State under the law (including regulations, policies, and procedures) relating to the obligation and expenditure of the funds in effect on that date.''

INTERMODAL FREIGHT CONNECTORS STUDY

Pub. L. 105–178, title I, §1106(d), June 9, 1998, 112 Stat. 136, provided that:

''(1) REPORT.—Not later than 2 years after the date of enactment of this Act [June 9, 1998], the Secretary shall—

''(A) review the condition of and improvements made, since the designation of the National Highway System, to connectors on the National Highway System that serve seaports, airports, and other intermodal freight transportation facilities; and

''(B) report to Congress on the results of such review.

''(2) REVIEW.—In preparing the report, the Secretary shall review the connectors and identify projects carried out on those connectors that were intended to provide and improve service to an intermodal facility referred to in paragraph (1) and to facilitate the efficient movement of freight, including movements of freight between modes.

''(3) IDENTIFICATION OF IMPEDIMENTS.—If the Secretary determines on the basis of the review that there are impediments to improving the connectors serving intermodal facilities referred to in paragraph (1), the Secretary shall identify such impediments and make any appropriate recommendations as part of the Secretary's report to Congress under this subsection.''

FUNCTIONAL RECLASSIFICATION OF HIGHWAYS

Section 1006(c) of Pub. L. 102–240 provided that:

''(1) STATE ACTION.—Each State shall functionally reclassify the roads and streets in such State in accordance with such guidelines and time schedule as the Secretary may establish in order to carry out the objectives of this section [amending this section and sections 101, 104 and 113 of this title and enacting provisions set out as a note under section 311 of this title], including the amendments made by this section.

''(2) APPROVAL AND SUBMISSION TO CONGRESS.—Not later than September 30, 1993, the Secretary shall approve the functional reclassification of roads and streets made by the States pursuant to this subsection and shall submit a report to Congress containing such reclassification.

''(3) STATE DEFINED.—In this subsection, the term 'State' has the meaning such term has under section 101 of title 23, United States Code, and shall include the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Marianas.''

APPORTIONMENT FACTORS FOR EXPENDITURES ON SUBSTITUTE HIGHWAY AND TRANSIT PROJECTS

Section 103(a) of Pub. L. 100–17 directed Secretary to apportion for fiscal year 1987 the sums to be apportioned for such year under 22 U.S.C. 103(e)(4) for expenditure on substitute highway and transit projects, using the apportionment factors contained in the Committee Print Numbered 100–6 of the Committee on Public Works and Transportation of the House of Representatives.

SUBSTITUTE TRANSIT PROJECTS; INCREASE IN COST TO COMPLETE; APPORTIONMENT FACTORS

Section 103(c) of Pub. L. 100–17 provided that:

''(1) INCREASE IN COST TO COMPLETE.—The cost of completing substitute transit projects under section 103(e)(4)(B) of title 23, United States Code, is increased by $100,000,000.

''(2) APPORTIONMENT FACTORS.—Notwithstanding section 103(e)(4) of such title, funds appropriated to carry out projects as a result of enactment of paragraph (1) shall be made available in accordance with the apportionment factors contained in the Committee Print Numbered 100–2 of the Committee on Public Works and Transportation of the House of Representatives.''

COMBINED ROAD PLAN DEMONSTRATION PROGRAM; REPORT TO CONGRESSIONAL COMMITTEES

Section 137 of Pub. L. 100–17 directed Secretary, in cooperation with up to 5 States, to conduct a combined road plan demonstration to test feasibility of approaches for combining, streamlining, and increasing flexibility in administration of Federal-aid secondary program, Federal-aid urban program, and the off-system bridge, urban bridge, and secondary bridge programs and to submit to Congress an interim report on the program being carried out within 3 years after Apr. 2, 1987, and a final report evaluating the effectiveness of the demonstration program and making needed recommendations as soon as practicable after completion of the demonstration.

ROUTES WITHDRAWN; AVAILABILITY TO SECRETARY OF SUMS WHERE SUMS DETERMINED ARE LESS THAN COST OF COMPLETING WITHDRAWN ROUTES

Section 107(c)(2) of Pub. L. 97–424, as amended by Pub. L. 100–17, title I, §103(f)(2), Apr. 2, 1987, 101 Stat. 142, provided that: ''Notwithstanding any other provision of law, with respect to any route or portion thereof on the Interstate System approval of which is or has been withdrawn under section 103(e)(4) of title 23, United States Code, in any case where the sum determined under subparagraph (B) of such section is less than the cost to complete the withdrawn route or portion (in accordance with the design of such route or portion on the date of such withdrawal) as of June 30, 1980, as a re-

sult of decreases in construction costs, the sum which shall be available to the Secretary under such subparagraph shall be an amount equal to such cost of completion as of June 30, 1980.''

WITHDRAWAL OF SECRETARY'S APPROVAL OF ROUTE OR PORTION OF ROUTE ON INTERSTATE SYSTEM BETWEEN JUNE 20, 1979, AND JUNE 30, 1979, INCLUSIVE; SUBSTITUTION OF PROJECTS

Section 3 of Pub. L. 96–144 provided that: ''Notwithstanding the amendment made to section 103(e)(4) of title 23, United States Code, by the preceding section, in the case where the Secretary has withdrawn his approval of a route or portion thereof on the Interstate System under such section between June 20, 1979, and June 30, 1979, both dates inclusive, the sum available to the Secretary of Transportation to incur obligations for projects substituted for such withdrawn route or portion thereof shall be a sum equal to the Federal share of the cost to complete the withdrawn route or portion thereof, as that cost is included in the 1975 Interstate System cost estimate, as approved by Congress, subject to increase or decrease as determined by the Secretary based on changes in the construction costs of the withdrawn route or portion thereof as of the date of approval of each substitute project under section 103(e)(4) of title 23, United States Code.''

NECESSITY OF ENVIRONMENTAL IMPACT STATEMENT PRIOR TO ROUTE CONSTRUCTION ON THE DWIGHT D. EISENHOWER SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

Section 107(d) of Pub. L. 95–599, as amended by Pub. L. 101–427, Oct. 15, 1990, 104 Stat. 927, provided that: ''Notwithstanding any other provision of law, including but not limited to section 103 of title 23, United States Code and this section, no route or portion thereof shall be constructed on The Dwight D. Eisenhower System of Interstate and Defense Highways with respect to which an environmental impact statement has not been submitted to the Secretary of Transportation in accordance with the National Environmental Policy Act of 1969 [section 4321 et seq. of Title 42, The Public Health and Welfare] by September 30, 1983. Any such route or portion thereof shall thereupon be removed from designation as part of such Interstate System.''

TIME LIMIT FOR COMMENCEMENT OF, OR CONTRACT FOR, CONSTRUCTION; REMOVAL FROM DESIGNATION AS PART OF INTERSTATE SYSTEM

Section 107(e) of Pub. L. 95–599, as amended by Pub. L. 97–424, title I, §107(g), Jan. 6, 1983, 96 Stat. 2103; Pub. L. 100–17, title I, §103(d)(1), Apr. 2, 1987, 101 Stat. 141, provided that: ''By September 30, 1986, all routes or portions thereof on the Interstate System (for which the Secretary of Transportation finds that sufficient Interstate authorizations are available) must be under contract for construction or construction must have commenced. Immediately after such date, the Secretary shall remove from designation as part of the Interstate System each route or portion thereof not complying with this subsection.''

[Section 103(d)(2) of Pub. L. 100–17 provided that: ''The amendments made by paragraph (1) [amending section 107(e) of Pub. L. 95–599 set out above] shall take effect September 29, 1986.'']

INTERSTATE SYSTEM ROUTES WITHDRAWN FOR PURPOSE OF DESIGNATING ALTERNATIVE ROUTES AS SUBJECT TO ROUTE WITHDRAWAL PROVISIONS

Section 111(b) of Pub. L. 94–280 provided that: ''The amendment made by subsection (a) of this section [to fourth sentence of subsec. (e)(2) of this section] shall be applicable to each route on the Interstate System approval of which was withdrawn or is hereafter withdrawn by the Secretary of Transportation in accordance with the provisions of section 103(e)(2) of title 23, United States Code, including any route on the Interstate System approval of which was withdrawn by the Secretary of Transportation in accordance with the provisions of title 23, United States Code, on August 30, 1965, for the purpose of designating an alternative route.''

INTERSTATE SYSTEM SUBSECTION (e)(4) PROVISIONS IN EFFECT PRIOR TO AMENDMENT BY PUB. L. 94–280, §110; ROUTE WITHDRAWALS WITHIN URBANIZED AREAS; AVAILABILITY OF MILEAGE IN OTHER STATES; PUBLIC MASS TRANSIT NONHIGHWAY PROJECTS; GENERAL FUNDS UNAVAILABLE FOR OBLIGATION AFTER JUNE 30, 1981; SUPPLEMENTARY FUNDS; URBAN MASS TRANSPORTATION PROVISIONS APPLICABLE

Section 103(e)(4) of this title, as added Pub. L. 93–87, title I, §137(b), Aug. 13, 1973, 87 Stat. 269, and amended Pub. L. 93–643, §125(b), Jan. 4, 1975, 88 Stat. 2290, read prior to amendment by section 110 of Pub. L. 94–280 [set out in the text] as follows: ''Upon the joint request of a State Governor and the local governments concerned, the Secretary may withdraw his approval of any route or portion thereof on the Interstate System within any urbanized area in that State selected and approved in accordance with this title prior to the enactment of this paragraph, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System or will no longer be essential by reason of the application of this paragraph and will not be constructed as a part of the Interstate System, and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by such route or portion thereof. The mileage of the route or portion thereof of approval of which is withdrawn under this paragraph shall be available for designation on the Interstate System in any other State in accordance with paragraph (1) of this subsection. After the Secretary has withdrawn his approval of any such route or portion thereof, whenever responsible local officials of such urbanized area notify the State highway department that, in lieu of a route or portion thereof approval for which is withdrawn under this paragraph, their needs require a nonhighway public mass transit project involving the construction of fixed rail facilities, or the purchase of passenger equipment, including rolling stock for any mode of mass transit, or both, and the State highway department determines that such public mass transit project is in accordance with the planning process under section 134 of this title and is entitled to priority under such planning process, such public mass transit project shall be submitted for approval to the Secretary. Approval of the plans, specifications, and estimates for such project by the Secretary shall be deemed a contractual obligation of the United States for payment out of the general funds in the Treasury of its proportional share of the cost of such project in an amount equal to the Federal share which would be paid for such a project under the Urban Mass Transportation Act of 1964 [section 1601 et seq. of Title 49, Transportation], except that the total Federal cost of all such projects under this paragraph with respect to such route or portion thereof approval of which is withdrawn under this paragraph, shall not exceed the Federal share of the cost which would have been paid for such route or portion thereof, as such cost is included in the 1972 Interstate System cost estimate set forth in table 5 of House Public Works Committee Print Numbered 92–29, as revised in House Report Numbered 92–1443, increased or decreased, as the case may be, as determined by the Secretary, based on changes in construction costs of such route or portion thereof as of the date of withdrawal of approval under this paragraph and in accordance with that design of such route or portion thereof which is the basis of such 1972 cost estimate. Funds apportioned to such State for the Interstate System, which apportionment is based upon an Interstate System cost estimate that includes a route or portion thereof approval of which is withdrawn under this paragraph, shall be reduced by an amount equal to the Federal share of such project as such share becomes a contractual obligation of the United States. No general

funds shall be obligated under authority of this paragraph after June 30, 1981. No nonhighway public mass transit project shall be approved under this paragraph unless the Secretary has received assurances satisfactory to him from the State that public mass transportation systems will fully utilize the proposed project. The provision of assistance under this paragraph shall not be construed as bringing within the application of chapter 15 of title 5, United States Code [section 1501 et seq. of Title 5, Government Organization and Employees], any nonsupervisory employee of an urban mass transportation system (or of any other agency or entity performing related functions) to whom such chapter is otherwise inapplicable. Funds available for expenditure to carry out the purposes of this paragraph shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended [section 1601 et seq. of Title 49, Transportation]. The provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended, [section 1602 (e)(4) of Title 49], shall apply in carrying out this paragraph.''

BASIS OF FEDERAL-AID SYSTEMS REALIGNMENT

Section 148(d) of Pub. L. 93–87 provided that: ''Federal-aid systems realignment shall be based upon anticipated functional usage in the year 1980 or a planned connected system.''

§ 104. Apportionment

(a) ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to be made available to the Secretary for administrative expenses of the Federal Highway Administration—

(A) $353,024,000 for fiscal year 2005;
(B) $370,613,540 for fiscal year 2006;
(C) $389,079,500 for fiscal year 2007;
(D) $408,465,500 for fiscal year 2008; and
(E) $423,717,460 for fiscal year 2009.

(2) PURPOSES.—The funds authorized by this subsection shall be used—

(A) to administer the provisions of law to be financed from appropriations for the Federal-aid highway program and programs authorized under chapter 2; and

(B) to make transfers of such sums as the Secretary determines to be appropriate to the Appalachian Regional Commission for administrative activities associated with the Appalachian development highway system.

(3) AVAILABILITY.—The funds made available under paragraph (1) shall remain available until expended.

(b) APPORTIONMENTS.—On October 1 of each fiscal year, the Secretary, after making the set-asides authorized by subsections (d) and (f) and section 130(e), shall apportion the remainder of the sums authorized to be appropriated for expenditure on the Interstate and National Highway System program, the Congestion Mitigation and Air Quality Improvement program, the highway safety improvement program, and the Surface Transportation program for that fiscal year, among the several States in the following manner:

(1) NATIONAL HIGHWAY SYSTEM COMPONENT.—

(A) IN GENERAL.—For the National Highway System (excluding funds apportioned under paragraph (4)), $40,000,000 for each of fiscal years 2005 and 2006 and $50,000,000 for each of fiscal years 2007 through 2009 for the territorial highway program under section 215, $30,000,000 for each of fiscal years 2005 through 2009 for the Alaska Highway, and the remainder apportioned as follows:

(i) 25 percent in the ratio that—

(I) the total lane miles of principal arterial routes (excluding Interstate System routes) in each State; bears to

(II) the total lane miles of principal arterial routes (excluding Interstate System routes) in all States.

(ii) 35 percent in the ratio that—

(I) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in each State; bears to

(II) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in all States.

(iii) 30 percent in the ratio that—

(I) the total diesel fuel used on highways in each State; bears to

(II) the total diesel fuel used on highways in all States.

(iv) 10 percent in the ratio that—

(I) the quotient obtained by dividing the total lane miles on principal arterial highways in each State by the total population of the State; bears to

(II) the quotient obtained by dividing the total lane miles on principal arterial highways in all States by the total population of all States.

(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A) and paragraph (4), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under subparagraph (A) and paragraph (4).

(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—

(A) IN GENERAL.—For the congestion mitigation and air quality improvement program, in the ratio that—

(i) the total of all weighted nonattainment and maintenance area populations in each State; bears to

(ii) the total of all weighted nonattainment and maintenance area populations in all States.

(B) CALCULATION OF WEIGHTED NONATTAINMENT AND MAINTENANCE AREA POPULATION.—Subject to subparagraph (C), for the purpose of subparagraph (A), the weighted nonattainment and maintenance area population shall be calculated by multiplying the population of each area in a State that was a nonattainment area or maintenance area as described in section 149(b) for ozone or carbon monoxide by a factor of—

(i) 1.0 if, at the time of apportionment, the area is a maintenance area;

(ii) 1.0 if, at the time of the apportionment, the area is classified as a marginal ozone nonattainment area under subpart 2

of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

(iii) 1.1 if, at the time of the apportionment, the area is classified as a moderate ozone nonattainment area under such subpart;

(iv) 1.2 if, at the time of the apportionment, the area is classified as a serious ozone nonattainment area under such subpart;

(v) 1.3 if, at the time of the apportionment, the area is classified as a severe ozone nonattainment area under such subpart;

(vi) 1.4 if, at the time of the apportionment, the area is classified as an extreme ozone nonattainment area under such subpart;

(vii) 1.0 if, at the time of the apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone, but is classified under subpart 3 of part D of title I of such Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide; or

(viii) 1.0 if, at the time of apportionment, an area is designated as nonattainment for ozone under subpart 1 of part D of title I of such Act (42 U.S.C. 7512 et seq.).[1]

(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone as described in section 149(b), any county within the area was also classified under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.) as a nonattainment or maintenance area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the county, as determined under clauses (i) through (vi) or clause (viii) of subparagraph (B), shall be further multiplied by a factor of 1.2.

(D) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this paragraph, each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.

(E) DETERMINATIONS OF POPULATION.—In determining population figures for the purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary of Commerce.

(3) SURFACE TRANSPORTATION PROGRAM.—

(A) IN GENERAL.—For the surface transportation program, in accordance with the following formula:

(i) 25 percent of the apportionments in the ratio that—

(I) the total lane miles of Federal-aid highways in each State; bears to

(II) the total lane miles of Federal-aid highways in all States.

(ii) 40 percent of the apportionments in the ratio that—

(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

(iii) 35 percent of the apportionments in the ratio that—

(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available; bears to

(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.

(4) INTERSTATE MAINTENANCE COMPONENT.—For resurfacing, restoring, rehabilitating, and reconstructing the Interstate System—

(A) 33⅓ percent in the ratio that—

(i) the total lane miles on Interstate System routes open to traffic in each State; bears to

(ii) the total of all such lane miles in all States;

(B) 33⅓ percent in the ratio that—

(i) the total vehicle miles traveled on Interstate System routes open to traffic in each State; bears to

(ii) the total of all such vehicle miles traveled in all States; and

(C) 33⅓ percent in the ratio that—

(i) the total of each State's annual contributions to the Highway Trust Fund (other than the Mass Transit Account) attributable to commercial vehicles; bears to

(ii) the total of such annual contributions by all States.

(5) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

(A) IN GENERAL.—For the highway safety improvement program, in accordance with the following formula:

(i) 33⅓ percent of the apportionments in the ratio that—

(I) the total lane miles of Federal-aid highways in each State; bears to

(II) the total lane miles of Federal-aid highways in all States.

(ii) 33⅓ percent of the apportionments in the ratio that—

(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

(iii) 33⅓ percent of the apportionments in the ratio that—

(I) the number of fatalities on Federal-aid highways in each State in the latest fiscal year for which data are available; bears to

[1] See References in Text note below.

(II) the number of fatalities on Federal-aid highways in all States in the latest fiscal year for which data are available.

(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of one-half of 1 percent of the funds apportioned under this paragraph.

(c) TRANSFERABILITY OF NHS APPORTIONMENTS.—A State may transfer not to exceed 50 percent of the State's apportionment under subsection (b)(1) to the apportionment of the State under subsection (b)(3). A State may transfer not to exceed 100 percent of the State's apportionment under subsection (b)(1) to the apportionment of the State under subsection (b)(3) if the State requests to make such transfer and the Secretary approves such transfer as being in the public interest, after providing notice and sufficient opportunity for public comment. Section 133(d) shall not apply to funds transferred under this subsection.

(d) OPERATION LIFESAVER AND HIGH SPEED RAIL CORRIDORS.—

(1) OPERATION LIFESAVER.—To carry out a public information and education program to help prevent and reduce motor vehicle accidents, injuries, and fatalities and to improve driver performance at railway-highway crossings—

(A) before making an apportionment under subsection (b)(3) for fiscal year 2005, the Secretary shall set aside $560,000 for such fiscal year; and

(B) there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $560,000 for each of fiscal years 2006 through 2009.

(2) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—

(A) FUNDING.—To carry out the elimination of hazards at railway-highway crossings—

(i) before making an apportionment under subsection (b)(3) for fiscal year 2005, the Secretary shall set aside $5,250,000 for such fiscal year; and

(ii) there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $7,250,000 for fiscal year 2006, $10,000,000 for fiscal year 2007, $12,500,000 for fiscal year 2008, and $15,000,000 for fiscal year 2009.

(B) ELIGIBLE CORRIDORS.—Subject to subparagraph (E), funds made available under subparagraph (A) shall be expended for projects in—

(i) 5 railway corridors selected by the Secretary in accordance with this subsection (as in effect on the day before the date of enactment of this clause);

(ii) 3 railway corridors selected by the Secretary in accordance with subparagraphs (C) and (D);

(iii) a Gulf Coast high speed railway corridor (as designated by the Secretary);

(iv) a Keystone high speed railway corridor from Philadelphia to Harrisburg, Pennsylvania; and

(v) an Empire State railway corridor from New York City to Albany to Buffalo, New York.

(C) REQUIRED INCLUSION OF HIGH SPEED RAIL LINES.—A corridor selected by the Secretary under subparagraph (B) shall include rail lines where railroad speeds of 90 miles or more per hour are occurring or can reasonably be expected to occur in the future.

(D) CONSIDERATIONS IN CORRIDOR SELECTION.—In selecting corridors under subparagraph (B), the Secretary shall consider—

(i) projected rail ridership volume in each corridor;

(ii) the percentage of each corridor over which a train will be capable of operating at its maximum cruise speed taking into account such factors as topography and other traffic on the line;

(iii) projected benefits to nonriders such as congestion relief on other modes of transportation serving each corridor (including congestion in heavily traveled air passenger corridors);

(iv) the amount of State and local financial support that can reasonably be anticipated for the improvement of the line and related facilities; and

(v) the cooperation of the owner of the right-of-way that can reasonably be expected in the operation of high speed rail passenger service in each corridor.

(E) CERTAIN IMPROVEMENTS.—Of such set-aside, not less than $250,000 for fiscal year 2005, $1,000,000 for fiscal year 2006, $1,750,000 for fiscal year 2007, $2,250,000 for fiscal year 2008, and $3,000,000 for fiscal year 2009 shall be available for eligible improvements to the Minneapolis/St. Paul-Chicago segment of the Midwest High Speed Rail Corridor.

(F) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $15,000,000 for each of fiscal years 1999 through 2003 to carry out this subsection.

(e) CERTIFICATION OF APPORTIONMENTS.—

(1) IN GENERAL.—On October 1 of each fiscal year the Secretary shall certify to each of the State transportation departments the sums which he has apportioned hereunder to each State for such fiscal year. To permit the States to develop adequate plans for the utilization of apportioned sums, the Secretary shall advise each State of the amount that will be apportioned each year under this section not later than ninety days before the beginning of the fiscal year for which the sums to be apportioned are authorized, except that in the case of the Interstate System the Secretary shall advise each State ninety days prior to the apportionment of such funds.

(2) NOTICE TO STATES.—If the Secretary has not made an apportionment under section 104, 105, or 144 by the 21st day of a fiscal year beginning after September 30, 1998, the Secretary shall transmit, by such 21st day, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a written statement of the reason for not making such apportionment in a timely manner.

(f) METROPOLITAN PLANNING.—

(1) SET-ASIDE.—On October 1 of each fiscal year, the Secretary shall set aside 1.25 percent of the funds authorized to be appropriated for the Interstate maintenance, national highway system, surface transportation, congestion mitigation and air quality improvement, and highway bridge programs authorized under this title to carry out the requirements of section 134.

(2) APPORTIONMENT TO STATES OF SET-ASIDE FUNDS.—These funds shall be apportioned to the States in the ratio which the population in urbanized areas or parts thereof, in each State bears to the total population in such urbanized areas in all the States as shown by the latest available census, except that no State shall receive less than one-half percent of the amount apportioned.

(3) USE OF FUNDS.—

(A) IN GENERAL.—The funds apportioned to any State under paragraph (2) of this subsection shall be made available by the State to the metropolitan planning organizations responsible for carrying out the provisions of section 134 of this title, except that States receiving the minimum apportionment under paragraph (2) may, in addition, subject to the approval of the Secretary, use the funds apportioned to finance transportation planning outside of urbanized areas.

(B) UNUSED FUNDS.—Any funds that are not used to carry out section 134 may be made available by a metropolitan planning organization to the State to fund activities under section 135.

(4) DISTRIBUTION OF FUNDS WITHIN STATES.—

(A) IN GENERAL.—The distribution within any State of the planning funds made available to agencies under paragraph (3) of this subsection shall be in accordance with a formula developed by each State and approved by the Secretary which shall consider but not necessarily be limited to, population, status of planning, attainment of air quality standards, metropolitan area transportation needs, and other factors necessary to provide for an appropriate distribution of funds to carry out the requirements of section 134 and other applicable requirements of Federal law.

(B) REIMBURSEMENT.—Not later than 30 days after the date of receipt by a State of a request for reimbursement of expenditures made by a metropolitan planning organization for carrying out section 134, the State shall reimburse, from funds distributed under this paragraph to the metropolitan planning organization by the State, the metropolitan planning organization for those expenditures.

(5) DETERMINATION OF POPULATION FIGURES.—For the purposes of determining population figures under this subsection, the Secretary shall use the most recent estimate published by the Secretary of Commerce.

(g) Not more than 40 per centum of the amount apportioned in any fiscal year to each State in accordance with sections 130 and 144 may be transferred from the apportionment under one section to the apportionment under any other of such sections if such a transfer is requested by the State transportation department and is approved by the Secretary as being in the public interest. The Secretary may approve the transfer of 100 per centum of the apportionment under one such section to the apportionment under any other of such sections if such transfer is requested by the State transportation department, and is approved by the Secretary as being in the public interest, if he has received satisfactory assurances from such State transportation department that the purposes of the program from which such funds are to be transferred have been met. A State may transfer not to exceed 50 percent of the State's apportionment under section 144 in any fiscal year to the apportionment of such State under subsection (b)(1) or subsection (b)(3) of this section. Any transfer to subsection (b)(3) shall not be subject to section 133(d). Nothing in this subsection authorizes the transfer of any amount apportioned from the Highway Trust Fund to any apportionment the funds for which were not from the Highway Trust Fund, and nothing in this subsection authorizes the transfer of any amount apportioned from funds not from the Highway Trust Fund to any apportionment the funds for which were from the Highway Trust Fund.

(h) RECREATIONAL TRAILS PROGRAM.—

(1) ADMINISTRATIVE COSTS.—Before apportioning sums authorized to be appropriated to carry out the recreational trails program under section 206, the Secretary shall deduct for administrative, research, technical assistance, and training expenses for such program $840,000 for each of fiscal years 2005 through 2009. The Secretary may enter into contracts with for-profit organizations or contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations to perform these tasks.

(2) APPORTIONMENT TO THE STATES.—The Secretary shall apportion the sums authorized to be appropriated for expenditure on the recreational trails program for each fiscal year, among the States in the following manner:

(A) 50 percent of that amount shall be apportioned equally among eligible States.

(B) 50 percent of that amount shall be apportioned among eligible States in amounts proportionate to the degree of non-highway recreational fuel use in each of those States during the preceding year.

(3) ELIGIBLE STATE DEFINED.—In this section, the term ''eligible State'' means a State that meets the requirements of section 206(c).

(i) AUDITS OF HIGHWAY TRUST FUND.—From administrative funds made available under subsection (a), the Secretary may reimburse the Office of Inspector General of the Department of Transportation for the conduct of annual audits of financial statements in accordance with section 3521 of title 31.

(j) REPORT TO CONGRESS.—The Secretary shall submit to Congress a report, and also make such report available to the public in a user-friendly format via the Internet, for each fiscal year on—

(1) the amount obligated, by each State, for Federal-aid highways and highway safety construction programs during the preceding fiscal year;

(2) the balance, as of the last day of the preceding fiscal year, of the unobligated apportionment of each State by fiscal year under this section and sections 105 and 144;

(3) the balance of unobligated sums available for expenditure at the discretion of the Secretary for such highways and programs for the fiscal year; and

(4) the rates of obligation of funds apportioned or set aside under this section and sections 105, 133, and 144, according to—

(A) program;

(B) funding category or subcategory;

(C) type of improvement;

(D) State; and

(E) sub-State geographic area, including urbanized and rural areas, on the basis of the population of each such area.

(k) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

(1) TRANSFER OF HIGHWAY FUNDS FOR TRANSIT PROJECTS.—

(A) IN GENERAL.—Subject to subparagraph (B), funds made available for transit projects or transportation planning under this title may be transferred to and administered by the Secretary in accordance with chapter 53 of title 49.

(B) NON-FEDERAL SHARE.—The provisions of this title relating to the non-Federal share shall apply to the funds transferred under subparagraph (A).

(2) TRANSFER OF TRANSIT FUNDS FOR HIGHWAY PROJECTS.—

(A) IN GENERAL.—Subject to subparagraph (B), funds made available for highway projects or transportation planning under chapter 53 of title 49 may be transferred to and administered by the Secretary in accordance with this title.

(B) NON-FEDERAL SHARE.—The provisions of chapter 53 of title 49 relating to the non-Federal share shall apply to funds transferred under subparagraph (A).

(3) TRANSFER OF FUNDS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Secretary may, at the request of a State, transfer funds apportioned or allocated under this title to the State to another State, or to the Federal Highway Administration, for the purpose of funding one or more projects that are eligible for assistance with funds so apportioned or allocated.

(B) APPORTIONMENT.—The transfer shall have no effect on any apportionment of funds to a State under this section or section 105 or 144.

(C) SURFACE TRANSPORTATION PROGRAM.—Funds that are apportioned or allocated to a State under subsection (b)(3) and attributed to an urbanized area of a State with a population of over 200,000 individuals under section 133(d)(3) may be transferred under this paragraph only if the metropolitan planning organization designated for the area concurs, in writing, with the transfer request.

(4) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for funds transferred under this subsection shall be transferred in the same manner and amount as the funds for the projects that are transferred under this subsection.

(*l*) EFFECT OF CERTAIN DELAY IN DEPOSITS INTO HIGHWAY TRUST FUND.—Notwithstanding any other provision of law, deposits into the Highway Trust Fund resulting from the application of section 901(e) of the Taxpayer Relief Act of 1997 (111 Stat. 872) shall not be taken into account in determining the apportionments and allocations that any State shall be entitled to receive under the Transportation Equity Act for the 21st Century and this title.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 889; Pub. L. 86–70, §21(e)(2), June 25, 1959, 73 Stat. 146; Pub. L. 86–657, §8(g), July 14, 1960, 74 Stat. 525; Pub. L. 87–866, §10(a), Oct. 23, 1962, 76 Stat. 1148; Pub. L. 88–157, §§2, 3, Oct. 24, 1963, 77 Stat. 276; Pub. L. 88–423, §4(a), Aug. 13, 1964, 78 Stat. 397; Pub. L. 89–574, §4(b), Sept. 13, 1966, 80 Stat. 767; Pub. L. 90–495, §4(b), Aug. 23, 1968, 82 Stat. 816; Pub. L. 91–605, title I, §§104(b), 106(c), Dec. 31, 1970, 84 Stat. 1714, 1717; Pub. L. 93–87, title I, §§106(b), 111(a), 112, title II, §227, Aug. 13, 1973, 87 Stat. 254, 256, 257, 292; Pub. L. 94–280, title I, §§106(b), 107(b), 112(a)–(g), 113(a), title II, §206, May 5, 1976, 90 Stat. 429, 430, 433–435, 453; Pub. L. 95–599, title I, §§108–110, 116(b), Nov. 6, 1978, 92 Stat. 2695, 2696, 2699; Pub. L. 97–134, §§4(c), 5, Dec. 29, 1981, 95 Stat. 1700; Pub. L. 100–17, title I, §§102(b)(1), (2), 114(e)(1), Apr. 2, 1987, 101 Stat. 135, 153; Pub. L. 100–202, §101(*l*) [title III, §347(a)], Dec. 22, 1987, 101 Stat. 1329–358, 1329–388; Pub. L. 101–516, title III, §333 (part), Nov. 5, 1990, 104 Stat. 2184; Pub. L. 102–143, title III, §333(c), Oct. 28, 1991, 105 Stat. 947; Pub. L. 102–240, title I, §§1001(c)–(e), 1003(e), 1006(e), (f), 1007(b), 1008(b), 1009(d), 1010, 1024(b), (c)(2), 1028(g), Dec. 18, 1991, 105 Stat. 1915, 1916, 1926, 1930, 1932, 1934, 1962, 1968; Pub. L. 104–59, title III, §§302, 319(a)(2), 337(f), title IV, §410, Nov. 28, 1995, 109 Stat. 578, 589, 603, 633; Pub. L. 105–130, §§4(a)(3), 5(b), Dec. 1, 1997, 111 Stat. 2556; Pub. L. 105–178, title I, §§1103(a)–(k), (*o*), 1212(a)(2)(A), June 9, 1998, 112 Stat. 118–125, 193; Pub. L. 105–206, title IX, §9002(c)(3), July 22, 1998, 112 Stat. 835; Pub. L. 106–159, title I, §101(b), Dec. 9, 1999, 113 Stat. 1751; Pub. L. 108–178, §4(d), Dec. 15, 2003, 117 Stat. 2641; Pub. L. 109–59, title I, §§1103, 1107–1109(a), 1118(b)(2), 1401(a)(3)(A), (b), Aug. 10, 2005, 119 Stat. 1161, 1166–1168, 1181, 1225; Pub. L. 110–244, title I, §101(i), (m)(3)(A), June 6, 2008, 122 Stat. 1574, 1576.)

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (b)(2)(B), (C), is act July 14, 1955, ch. 360, 69 Stat. 322. Subparts 1, 2, and 3 of part D of title I of the Act are classified to subparts 1 (§7501 et seq.), 2 (§7511 et seq.), and 3 (§7512 et seq.), respectively, of part D of subchapter I of chapter 85 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The date of enactment of this clause, referred to in subsec. (d)(2)(B)(i), is the date of enactment of Pub. L. 105–178, which was approved June 9, 1998.

Section 901(e) of the Taxpayer Relief Act of 1997, referred to in subsec. (*l*), is section 901(e) of Pub. L. 105–34, title IX, Aug. 5, 1997, 111 Stat. 872, which is set out as a note under section 6302 of Title 26, Internal Revenue Code.

The Transportation Equity Act for the 21st Century, referred to in subsec. (*l*), is Pub. L. 105–178, June 9, 1998, 112 Stat. 107. For complete classification of this Act to the Code, see section 1(a) of Pub. L. 105–178, set out as a Short Title of 1998 Amendment note under section 101 of this title and Tables.

CODIFICATION

Another section 1003(e) of Pub. L. 102–240, as added by Pub. L. 105–130, § 2(d), is not classified to the Code.

AMENDMENTS

2008—Subsec. (b)(5)(A)(iii). Pub. L. 110–244, § 101(i), substituted ''Federal-aid highways'' for ''the Federal-aid system'' in subcls. (I) and (II).

Subsec. (f)(1). Pub. L. 110–244, § 101(m)(3)(A), struck out ''replacement and rehabilitation'' after ''highway bridge''.

2005—Subsec. (a). Pub. L. 109–59, § 1103(a)(1), reenacted heading without change and amended text of subsec. (a) generally, substituting provisions authorizing appropriations for administrative expenses of the Federal Highway Administration and provisions relating to uses and availability of funds for provisions relating to deduction for administrative activities from sums made available under certain programs and provisions relating to consideration of unobligated balances, availability of sums, and limitation on transferability.

Subsec. (b). Pub. L. 109–59, §§ 1103(a)(2)(A), 1401(b)(1), in introductory provisions, substituted ''the set-asides authorized by subsections (d) and (f) and section 130(e)'' for ''the deduction authorized by subsection (a) and the set-aside authorized by subsection (f)'' and inserted ''the highway safety improvement program,'' after ''Improvement program,''.

Subsec. (b)(1)(A). Pub. L. 109–59, §§ 1103(b), (c), 1118(b)(2), in introductory provisions, substituted ''$40,000,000 for each of fiscal years 2005 and 2006 and $50,000,000 for each of fiscal years 2007 through 2009 for the territorial highway program under section 215, $30,000,000 for each of fiscal years 2005 through 2009'' for ''$36,400,000 for each fiscal year to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands, $18,800,000 for each of fiscal years 1998 through 2002''.

Subsec. (b)(2)(B)(i). Pub. L. 109–59, § 1103(d)(1)(A), added cl. (i) and struck out former cl. (i) which read as follows: ''0.8 if—

''(I) at the time of the apportionment, the area is a maintenance area; or

''(II) at the time of the apportionment, the area is classified as a submarginal ozone nonattainment area under the Clean Air Act (42 U.S.C. 7401 et seq.);''.

Subsec. (b)(2)(B)(viii). Pub. L. 109–59, § 1103(d)(1)(B)–(D), added cl. (viii).

Subsec. (b)(2)(C). Pub. L. 109–59, § 1103(d)(2), added subpar. (C) and struck out former subpar. (C), which required that the weighted nonattainment or maintenance area population of the area for a carbon monoxide nonattainment area be further multiplied by a factor of 1.2 and that the weighted nonattainment or maintenance area population of the area for a carbon monoxide maintenance area be further multiplied by a factor of 1.1.

Subsec. (b)(5). Pub. L. 109–59, § 1401(b)(2), added par. (5).

Subsec. (d)(1). Pub. L. 109–59, § 1103(f)(1), added par. (1) and struck out heading and text of former par. (1). Text read as follows: ''Before making an apportionment under subsection (b)(3) of this section for a fiscal year, the Secretary shall set aside $500,000 for such fiscal year for carrying out a public information and education program to help prevent and reduce motor vehicle accidents, injuries, and fatalities and to improve driver performance at railway-highway crossings.''

Subsec. (d)(2). Pub. L. 109–59, § 1103(f)(1), reenacted heading without change.

Subsec. (d)(2)(A). Pub. L. 109–59, § 1103(f)(1), added subpar. (A) and struck out heading and text of former subpar. (A). Text read as follows: ''Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside $5,250,000 of the funds made available for the surface transportation program for the fiscal year for elimination of hazards of railway-highway crossings.''

Subsec. (d)(2)(E). Pub. L. 109–59, § 1103(f)(2), substituted ''Of such set-aside, not less than $250,000 for fiscal year 2005, $1,000,000 for fiscal year 2006, $1,750,000 for fiscal year 2007, $2,250,000 for fiscal year 2008, and $3,000,000 for fiscal year 2009'' for ''Not less than $250,000 of such set-aside'' and struck out ''per fiscal year'' after ''shall be available''.

Subsec. (e)(1). Pub. L. 109–59, § 1103(a)(2)(B), struck out '', and also the sums which he has deducted for administration pursuant to subsection (a) of this section'' after ''such fiscal year''.

Subsec. (f)(1). Pub. L. 109–59, § 1107(1), added par. (1) and struck out heading and text of former par. (1). Text read as follows: ''On October 1 of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) of this section, shall set aside not to exceed 1 percent of the remaining funds authorized to be appropriated for expenditure upon programs authorized under this title, for the purpose of carrying out the requirements of section 134 of this title.''

Subsec. (f)(2). Pub. L. 109–59, § 1107(2), substituted ''percent'' for ''per centum''.

Subsec. (f)(3). Pub. L. 109–59, § 1107(3), designated first sentence as subpar. (A), inserted heading, and substituted subpar. (B) for second sentence which read as follows: ''These funds shall be matched in accordance with section 120(b) unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching.''

Subsec. (f)(4). Pub. L. 109–59, § 1107(4), designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (g). Pub. L. 109–59, § 1401(a)(3)(A), substituted ''sections 130 and 144'' for ''sections 130, 144, and 152 of this title''.

Subsec. (h)(1). Pub. L. 109–59, § 1109(a)(1), substituted ''Before apportioning sums authorized to be appropriated to carry out the recreational trails program under section 206, the Secretary shall deduct for administrative, research, technical assistance, and training expenses for such program $840,000 for each of fiscal years 2005 through 2009.'' for ''Whenever an apportionment is made of the sums authorized to be appropriated to carry out the recreational trails program under section 206, the Secretary shall deduct an amount, not to exceed 1½ percent of the sums authorized, to cover the cost to the Secretary for administration of and research and technical assistance under the recreational trails program and for administration of the National Recreational Trails Advisory Committee.''

Subsec. (h)(2). Pub. L. 109–59, § 1109(a)(2), substituted ''The Secretary shall apportion the sums'' for ''After making the deduction authorized by paragraph (1) of this subsection, the Secretary shall apportion the remainder of the sums'' in introductory provisions.

Subsec. (i). Pub. L. 109–59, § 1103(a)(2)(C), substituted ''made available'' for ''deducted''.

Subsec. (j). Pub. L. 109–59, § 1103(e), substituted ''submit to Congress a report, and also make such report available to the public in a user-friendly format via the Internet,'' for ''submit to Congress a report'' in introductory provisions.

Subsec. (k). Pub. L. 109–59, § 1108, reenacted heading without change and amended text of subsec. (k) generally. Prior to amendment, text read as follows:

''(1) TRANSFER OF HIGHWAY FUNDS.—Funds made available under this title and transferred for transit projects of a type described in section 133(b)(2) shall be administered by the Secretary in accordance with chapter 53 of title 49, except that the provisions of this title relating

to the non-Federal share shall apply to the transferred funds.

''(2) TRANSFER OF TRANSIT FUNDS.—Funds made available under chapter 53 of title 49 and transferred for highway projects shall be administered by the Secretary in accordance with this title, except that the provisions of such chapter relating to the non-Federal share shall apply to the transferred funds.

''(3) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority provided for projects described in paragraphs (1) and (2) shall be transferred in the same manner and amount as the funds for the projects are transferred.''

2003—Subsec. (a)(1). Pub. L. 108–178 substituted ''section 14501 of title 40'' for ''section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.)'' in introductory provisions.

1999—Subsec. (a)(1). Pub. L. 106–159, §101(b)(1)–(3), substituted ''exceed—'' for ''exceed 1½ percent of all sums so made available, as the Secretary determines necessary—'' in introductory provisions, added introductory provisions of subpar. (A), redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A), substituted ''; and'' for the period at end of cl. (ii), and added subpar. (B).

Subsec. (a)(4). Pub. L. 106–159, §101(b)(4), which directed amendment of subsec. (a)(1) by adding par. (4) at the end, was executed by adding par. (4) at the end of subsec. (a), to reflect the probable intent of Congress.

1998—Subsec. (a). Pub. L. 105–178, §1103(a), added subsec. (a) and struck out former subsec. (a) which read as follows: ''Whenever an apportionment is made of the sums authorized to be appropriated for expenditure on the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, and the Interstate System, the Secretary shall deduct a sum, in such amount not to exceed 3¾ per centum of all sums so authorized as the Secretary may deem necessary for administering the provisions of law to be financed from appropriations for the Federal-aid systems and for carrying on the research authorized by subsections (a) and (b) of section 307 of this title. In making such determination, the Secretary shall take into account the unexpended balance of any sums deducted for such purposes in prior years. The sum so deducted shall be available for expenditure from the unexpended balance of any appropriation made at any time for expenditure upon the Federal-aid systems, until such sum has been expended.''

Subsec. (a)(1). Pub. L. 105–178, §1103(*o*)(1), as added by Pub. L. 105–206, §9002(c)(3), struck out ''under section 103'' after ''National Highway System program'' in introductory provisions.

Subsec. (b). Pub. L. 105–178, §1103(b), inserted heading and amended text of subsec. (b) generally. Prior to amendment, text related to Secretary's apportionment among various States of sums authorized to be appropriated for surface transportation program, congestion mitigation and air quality improvement program, National Highway System, and Interstate System each fiscal year.

Subsec. (b)(1)(A). Pub. L. 105–178, §1103(*o*)(2)(A), as added by Pub. L. 105–206, §9002(c)(3), substituted ''1998 through 2002'' for ''1999 through 2003''.

Subsec. (b)(4)(B)(i). Pub. L. 105–178, §1103(*o*)(2)(B), as added by Pub. L. 105–206, §9002(c)(3), substituted ''on Interstate System routes open to traffic in each State'' for ''on lanes on Interstate System routes designated under—

''(I) section 103;

''(II) section 139(a) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) before March 9, 1984 (other than routes on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)); and

''(III) section 139(c) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century);

in each State''.

Subsec. (d)(1). Pub. L. 105–178, §1103(c)(1), substituted ''Before making an apportionment under subsection (b)(3) of this section for a fiscal year, the Secretary shall set aside $500,000 for such'' for ''The Secretary shall expend, from administrative funds deducted under subsection (a), $300,000 for each''.

Subsec. (d)(2). Pub. L. 105–178, §1103(c)(2), added par. (2) and struck out former par. (2) which read as follows:

''(2) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—(A) Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside $5,000,000 of the funds authorized to be appropriated for the surface transportation program for such fiscal year for elimination of hazards of railway-highway crossings in not to exceed 5 railway corridors selected by the Secretary in accordance with the criteria set forth in this paragraph.

''(B) A corridor selected by the Secretary under subparagraph (A) must include rail lines where railroad speeds of 90 miles per hour are occurring or can reasonably be expected to occur in the future.''

Subsec. (d)(3). Pub. L. 105–178, §1103(c)(2), struck out par. (3) which read as follows: ''In making the determination required by paragraph (2)(A), the Secretary shall consider projected rail ridership volumes in such corridors, the percentage of the corridor over which a train will be capable of operating at its maximum cruise speed taking into account such factors as topography and other traffic on the line, projected benefits to nonriders such as congestion relief on other modes of transportation serving the corridors (including congestion in heavily traveled air passenger corridors), the amount of State and local financial support that can reasonably be anticipated for the improvement of the line and related facilities, and the cooperation of the owner of the right-of-way that can reasonably be expected in the operation of high speed rail passenger service in such corridors.''

Subsec. (e). Pub. L. 105–178, §1103(d), inserted heading, designated existing provisions as par. (1), inserted heading, struck out ''(other than under subsection (b)(5) of this section)'' after ''apportioned hereunder'' and ''and research'' before ''pursuant to subsection (a) of this section'' in first sentence, struck out second sentence which read ''On October 1 of the year preceding the fiscal year for which authorized, the Secretary shall certify to each of the State highway departments the sums which he has apportioned under subsection (b)(5) of this section to each State for such fiscal year, and also the sums which he has deducted for administration and research pursuant to subsection (a) of this section.'', realigned margins, and added par. (2).

Subsec. (e)(1). Pub. L. 105–178, §1212(a)(2)(A)(ii), substituted ''State transportation departments'' for ''State highway departments''.

Subsec. (e)(2). Pub. L. 105–178, §1103(*o*)(3), as added by Pub. L. 105–206, §9002(c)(3), substituted ''104, 105, or 144'' for ''104, 144, or 157''.

Subsec. (f). Pub. L. 105–178, §1103(k)(1), inserted heading.

Subsec. (f)(1). Pub. L. 105–178, §1103(k)(2), which directed the amendment of par. (1) by striking out ''', except that' and all that follows through 'programs' '', was executed by striking out '', except that the amount from which such set aside is made shall not include funds authorized to be appropriated for the recreational trails program'' after ''section 134 of this title'' to reflect the probable intent of Congress and the amendment by Pub. L. 105–178, §1103(e)(1). See below.

Pub. L. 105–178, §1103(k)(1), (6), inserted heading and realigned margins.

Pub. L. 105–178, §1103(e)(1), substituted ''recreational trails program'' for ''Interstate construction and Interstate substitute programs''.

Subsec. (f)(2). Pub. L. 105–178, §1103(k)(3), (6), inserted heading and realigned margins.

Subsec. (f)(3). Pub. L. 105–178, §1103(e)(2), (k)(4), (6), inserted heading, substituted ''section 120(b)'' for ''section 120(j) of this title'', and realigned margins.

Subsec. (f)(4). Pub. L. 105–178, § 1103(k)(5), (6), inserted heading and realigned margins.

Subsec. (f)(5). Pub. L. 105–178, § 1103(k)(6), realigned margins.

Subsec. (g). Pub. L. 105–178, § 1212(a)(2)(A)(i), substituted ''State transportation department'' for ''State highway department'' wherever appearing.

Subsec. (h). Pub. L. 105–178, § 1103(f), amended heading and text of subsec. (h) generally. Prior to amendment, text read as follows: ''In addition to funds made available from the National Recreational Trails Trust Fund, the Secretary shall obligate, from administrative funds (contract authority) deducted under subsection (a), to carry out section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261) $15,000,000 for each of fiscal years 1996 and 1997 and $7,500,000 for the period of October 1, 1997, through March 31, 1998.''

Subsec. (i). Pub. L. 105–178, § 1103(g), added subsec. (i) and struck out former subsec. (i) which read as follows:

''(i) WOODROW WILSON MEMORIAL BRIDGE.—

''(1) EXPENDITURE.—From any available administrative funds deducted under subsection (a), the Secretary shall obligate such sums as are necessary for each of fiscal years 1996 and 1997, and for the period of October 1, 1997, through March 31, 1998, for the rehabilitation of the Woodrow Wilson Memorial Bridge and for environmental studies and documentation, planning, preliminary engineering and design, and final engineering for a new crossing of the Potomac River as part of the Project, as defined by section 404 of the Woodrow Wilson Memorial Bridge Authority Act of 1995.

''(2) FEDERAL SHARE.—The Federal share of the cost of any project funded with amounts expended under paragraph (1) shall be 100 percent.''

Subsec. (j). Pub. L. 105–178, § 1103(h), added subsec. (j) and struck out former subsec. (j) which read as follows: ''The Secretary shall submit to Congress not later than the 20th day of each calendar month which begins after the date of enactment of this subsection a report on (1) the amount of obligation, by State, for Federal-aid highways and the highway safety construction programs during the preceding calendar month, (2) the cumulative amount of obligation, by State, for that fiscal year, (3) the balance as of the last day of such preceding month of the unobligated apportionment of each State by fiscal year, and (4) the balance of unobligated sums available for expenditure at the discretion of the Secretary for such highways and programs for that fiscal year.''

Subsec. (k). Pub. L. 105–178, § 1103(i), added subsec. (k).

Subsec. (*l*). Pub. L. 105–178, § 1103(j), added subsec. (*l*).

1997—Subsec. (h). Pub. L. 105–130, § 5(b), added Pub. L. 102–240, § 1003(e). See 1991 Amendment note below.

Subsec. (i)(1). Pub. L. 105–130, § 4(a)(3), inserted '', and for the period of October 1, 1997, through March 31, 1998,'' after ''fiscal years 1996 and 1997''.

1995—Subsec. (b)(2). Pub. L. 104–59, § 319(a)(2), in second sentence of introductory provisions substituted ''was a nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2))) for ozone during any part of fiscal year 1994'' for ''is a nonattainment area (as defined in the Clean Air Act) for ozone'' and in first sentence of closing provisions substituted ''If the area was also'' for ''If the area is also'', and inserted ''during any part of fiscal year 1994'' after ''area for carbon monoxide''.

Subsec. (g). Pub. L. 104–59, § 302, substituted ''exceed 50 percent'' for ''exceed 40 percent'' in third sentence.

Subsecs. (h) to (j). Pub. L. 104–59, §§ 337(f), 410, added subsecs. (h) and (i) and redesignated former subsec. (h) as (j).

1991—Subsec. (a). Pub. L. 102–240, § 1007(b)(2)(A), substituted ''on the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, and the Interstate System'' for ''upon the Federal-aid systems'' and was executed by making the substitution for the first reference to ''upon the Federal-aid systems''.

Subsec. (a)(2), (3). Pub. L. 102–143, § 333(c), repealed Pub. L. 101–516, § 333. See 1990 Amendment note below.

Subsec. (b). Pub. L. 102–240, § 1007(b)(2), in introductory provisions, substituted ''paragraph (5)(A)'' for ''paragraphs (4) and (5)'', ''and section 307'' for ''and sections 118(c) and 307(d)'', and ''on the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, and the Interstate System'' for ''upon the Federal-aid systems''.

Pub. L. 102–143, § 333(c), repealed Pub. L. 101–516, § 333. See 1990 Amendment note below.

Subsec. (b)(1). Pub. L. 102–240, § 1006(e), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''For the Federal-aid primary system (including extensions in urban areas and priority primary routes)—

''Two-thirds according to the following formula: one-third in the ratio which the area of each State bears to the total area of all the States, one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States as shown by the latest available Federal census, and one-third in the ratio which the mileage of rural delivery routes and intercity mail routes where service is performed by motor vehicles in each State bear to the total mileage of rural delivery and intercity mail routes where service is performed by motor vehicles, as shown by a certificate of the Postmaster General, which he is directed to make and furnish annually to the Secretary; and one-third as follows: in the ratio which the population in urban areas in each State bears to the total population in urban areas in all the States as shown by the latest Federal census. No State (other than the District of Columbia) shall receive less than one-half of 1 per centum of each year's apportionment.''

Subsec. (b)(2). Pub. L. 102–240, § 1008(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''For the Federal-aid secondary system:

''One-third in the ratio which the area of each State bears to the total area of all the States; one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States as shown by the latest available Federal census; and one-third in the ratio which the mileage of rural delivery and intercity mail routes where service is performed by motor vehicles, certified as above provided, in each State bears to the total mileage of rural delivery and intercity mail routes where service is performed by motor vehicles in all the States. No State (other than the District of Columbia) shall receive less than one-half of 1 per centum of each year's apportionment.''

Subsec. (b)(3). Pub. L. 102–240, § 1007(b)(1), which directed that par. (3) ''is amended to read as follows'', was executed by adding par. (3) to reflect the probable intent of Congress, because prior par. (3) had been repealed. See 1976 Amendment note below.

Subsec. (b)(5)(A). Pub. L. 102–240, § 1001(c)–(e), substituted ''1960 through 1996'' for ''1960 through 1990'' wherever appearing, and ''As soon as practicable after the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991 for fiscal year 1992, and on October 1 of each of fiscal years 1993, 1994, and 1995, the Secretary shall make the apportionment required by this subparagraph for all States (other than Massachusetts) using the Federal share of the last estimate submitted to Congress, adjusted to reflect (i) all previous credits, apportionments of interstate construction funds, and lapses of previous apportionments of interstate construction funds, (ii) previous withdrawals of interstate segments, (iii) previous allocations of interstate discretionary funds, and (iv) transfers of interstate construction funds'' for ''On October 1 of each of fiscal years 1988, 1989, 1990, and 1991, whenever Congress has not approved a cost estimate under this subparagraph, the Secretary shall make the apportionment required by this subparagraph using the Federal share of the last estimate submitted to Congress,

adjusted to reflect (i) all previous credits, apportionments of interstate construction funds and lapses of previous apportionments of interstate construction funds, (ii) previous withdrawals of interstate segments, (iii) previous allocations of interstate discretionary funds, and (iv) transfers of interstate construction funds'', and inserted before last sentence: ''Notwithstanding any other provision of this subparagraph or any cost estimate approved or adjusted pursuant to this subparagraph, subject to the deductions under this section, the amounts to be apportioned to the State of Massachusetts pursuant to this subparagraph for fiscal years 1993, 1994, 1995, and 1996 shall be as follows: $450,000,000 for fiscal year 1993, $800,000,000 for fiscal year 1994, $800,000,000 for fiscal year 1995, and $500,000,000 for fiscal year 1996.''

Subsec. (b)(5)(B). Pub. L. 102–240, §1009(d), inserted ''and routes on the Interstate System designated under section 139(a) of this title before March 9, 1984,'' in two places.

Subsec. (c). Pub. L. 102–240, §1006(f), added subsec. (c) and struck out former subsec. (c) which read as follows:

''(1) Subject to subsection (d), the amount apportioned in any fiscal year, commencing with the apportionment of funds authorized to be appropriated under subsection (a) of section 102 of the Federal-Aid Highway Act of 1956 (70 Stat. 374), to each State in accordance with paragraph (1) or (2) of subsection (b) of this section may be transferred from the apportionment under one paragraph to the apportionment under the other paragraph if such a transfer is requested by the State highway department and is approved by the Governor of such State and the Secretary as being in the public interest.

''(2) Subject to subsection (d), the amount apportioned in any fiscal year to each State in accordance with paragraph (1) or (6) of subsection (b) of this section may be transferred from the apportionment under one paragraph to the apportionment under the other paragraph if such transfer is requested by the State highway department and is approved by the Governor of such State and the Secretary as being in the public interest. Funds apportioned in accordance with paragraph (6) of subsection (b) of this section shall not be transferred from their allocation to any urbanized area of two hundred thousand population or more under section 150 of this title, without the approval of the local officials of such urbanized area.''

Pub. L. 102–143, §333(c), repealed Pub. L. 101–516, §333. See 1990 Amendment note below.

Subsec. (d). Pub. L. 102–240, §1010, amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''Each transfer of apportionments under subsection (c) of this section shall be subject to the following conditions:

''(1) In the case of transfers under paragraph (1), the total of all transfers during any fiscal year to any apportionment shall not increase the original amount of such apportionment for such fiscal year by more than 50 per centum. Not more than 50 per centum of the original amount of an apportionment for any fiscal year shall be transferred to other apportionments.

''(2) In the case of transfers under paragraph (2), the total of all transfers during any fiscal year to any apportionment shall not increase the original amount of such apportionment for such fiscal year by more than 50 per centum. Not more than 50 per centum of the original amount of an apportionment for any fiscal year shall be transferred to other apportionments.

''(3) No transfer shall be made from an apportionment during any fiscal year if during such fiscal year a transfer has been made to such apportionment.

''(4) No transfer shall be made to an apportionment during any fiscal year if during such fiscal year a transfer has been made from such apportionment.''

Subsec. (f)(1). Pub. L. 102–240, §1024(b)(1)–(3), substituted ''1 percent'' for ''one-half per centum'', ''programs authorized under this title'' for ''the Federal-aid systems'', and ''except that the amount from which such set aside is made shall not include funds authorized to be appropriated for the Interstate construction and Interstate substitute programs'' for ''except that in the case of funds authorized for apportionment on the Interstate System, the Secretary shall set aside that portion of such funds (subject to the overall limitation of one-half of 1 per centum) on October 1 of the year next preceding the fiscal year for which such funds are authorized for such System''.

Subsec. (f)(3). Pub. L. 102–240, §1024(b)(4), (c)(2), substituted ''120(j)'' for ''120'' and struck out ''designated by the State as being'' after ''organizations''.

Subsec. (f)(4). Pub. L. 102–240, §1024(b)(5), inserted provisions relating to attainment of air quality standards and provisions relating to other factors necessary to provide appropriate distribution of funds to carry out section 134 and other requirements of Federal law.

Subsec. (f)(5). Pub. L. 102–240, §1024(b)(6), added par. (5).

Subsec. (g). Pub. L. 102–240, §1028(g), inserted before last sentence ''A State may transfer not to exceed 40 percent of the State's apportionment under section 144 in any fiscal year to the apportionment of such State under subsection (b)(1) or subsection (b)(3) of this section. Any transfer to subsection (b)(3) shall not be subject to section 133(d).''

Subsec. (h). Pub. L. 102–240, §1003(e), as added by Pub. L. 105–130, §5(b), inserted before period at end ''and $7,500,000 for the period of October 1, 1997, through March 31, 1998''.

1990—Subsec. (a)(2), (3). Pub. L. 101–516, §333 [part], which added pars. (2) and (3) to read as follows:

''(2) The Secretary shall withhold 10 per centum (including any amounts withheld under paragraph (1)) of the amount required to be apportioned to any State under each of paragraphs (1), (2), (5), and (6) of section 104(b) on the first day of each fiscal year which begins after the fourth full calendar year following the date of enactment of this section if the State does not meet the requirements of paragraph (3) on the first day of such fiscal year.

''(3) A State meets the requirements of this paragraph if—

''(A) the State has enacted and is enforcing a law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception—

''(i) the revocation, or suspension for at least 6 months, of the driver's license of any individual who is convicted, after the enactment of such law, of—

''(I) any violation of the Controlled Substances Act, or

''(II) any drug offense, and

''(ii) a delay in the issuance or reinstatement of a driver's license to such an individual for at least 6 months after the individual applies for the issuance or reinstatement of a driver's license if the individual does not have a driver's license, or the driver's license of the individual is suspended, at the time the individual is so convicted, or

''(B) The Governor of the State—

''(i) submits to the Secretary no earlier than the adjournment sine die of the first regularly scheduled session of the State's legislature which begins after the date of enactment of this section a written certification stating that he is opposed to the enactment or enforcement in his State of a law described in subparagraph (A) relating to the revocation, suspension, issuance, or reinstatement of driver's licenses to convicted drug offenders; and

''(ii) submits to the Secretary a written certification that the legislature (including both Houses where applicable) has adopted a resolution expressing its opposition to a law described in clause (i).''

was repealed by Pub. L. 102–143, §333(c). See Construction of 1990 Amendment note below and section 159(a)(2), (3) of this title.

Subsec. (b). Pub. L. 101–516, §333 [part], which amended subsec. (b) generally to read as follows:

''(1)(A) Any funds withheld under subsection (a) from apportionment to any State on or before September 30,

1995, shall remain available for apportionment to such State as follows:

''(i) If such funds would have been apportioned under section 104(b)(5)(A) but for this section, such funds shall remain available until the end of the fiscal year for which such funds are authorized to be appropriated.

''(ii) If such funds would have been apportioned under section 104(b)(5)(B) but for this section, such funds shall remain available until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

''(iii) If such funds would have been apportioned under paragraph (1), (2), or (6) of section 104(b) but for this section, such funds shall remain available until the end of the third fiscal year following the fiscal year for which such funds are authorized to be appropriated.

''(B) No funds withheld under this section from apportionment to any State after September 30, 1995, shall be available for apportionment to such State.

''(2) If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment to a State under paragraph (1), the State meets the requirements of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirements of subsection (a)(3), apportion to the State the funds withheld under subsection (a) that remain available for apportionment to the State.

''(3) Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure as follows:

''(A) Funds originally apportioned under section 104(b)(5)(A) shall remain available until the end of the fiscal year succeeding the fiscal year in which such funds are apportioned under paragraph (2).

''(B) Funds originally apportioned under paragraph (1), (2), (5)(B), or (6) of section 104(b) shall remain available until the end of the third fiscal year succeeding the fiscal year in which such funds are so apportioned.

Sums not obligated at the end of such period shall lapse or, in the case of funds apportioned under section 104(b)(5), shall lapse and be made available by the Secretary for projects in accordance with section 118(b).

''(4) If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirements of subsection (a)(3), such funds shall lapse or, in the case of funds withheld from apportionment under section 104(b)(5), such funds shall lapse and be made available by the Secretary for projects in accordance with section 118(b).''

was repealed by Pub. L. 102–143, § 333(c). See Construction of 1990 Amendment note below and section 159(b) of this title.

Subsec. (c). Pub. L. 101–516, § 333 [part], which amended subsec. (c) generally to read as follows: ''For purposes of this section—

''(1) The term 'driver's license' means a license issued by a State to any individual that authorizes the individual to operate a motor vehicle on highways.

''(2) The term 'drug offense' means any criminal offense which proscribes—

''(A) the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act, or

''(B) the operation of a motor vehicle under the influence of such a substance.

''(3) The term 'convicted' includes adjudicated under juvenile proceedings.''

was repealed by Pub. L. 102–143, § 333(c). See Construction of 1990 Amendment note below and section 159(c) of this title.

1987—Subsec. (b). Pub. L. 100–17, § 114(e)(1), inserted ''and the set asides authorized by subsection (f) of this section and sections 118(c) and 307(d) of this title'' after ''subsection (a) of this section'' in introductory provisions.

Subsec. (b)(5)(A). Pub. L. 100–17, § 102(b)(1), inserted after ''September 30, 1990.'' the following: ''The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within 10 days subsequent to January 2, 1989. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years 1991 and 1992. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within 10 days subsequent to January 2, 1991. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal year 1993.''

Pub. L. 100–17, § 102(b)(2), inserted at end ''On October 1 of each of fiscal years 1988, 1989, 1990, and 1991, whenever Congress has not approved a cost estimate under this subparagraph, the Secretary shall make the apportionment required by this subparagraph using the Federal share of the last estimate submitted to Congress, adjusted to reflect (i) all previous credits, apportionments of interstate construction funds and lapses of previous apportionments of interstate construction funds, (ii) previous withdrawals of interstate segments, (iii) previous allocations of interstate discretionary funds, and (iv) transfers of interstate construction funds. If, before apportionment of funds under this subparagraph for any fiscal year, the Secretary and a State highway department agree that a portion of the apportionment to such State is not needed for such fiscal year, the amount of such portion shall be made available under section 118(b)(2) of this title.''

Subsec. (g). Pub. L. 100–202 substituted ''sections 130, 144, and 152 of this title'' for ''sections 144, 152, and 153 of this title, or section 203(d) of the Highway Safety Act of 1973,'' and struck out ''All or any part of the funds apportioned in any fiscal year to a State in accordance with section 203(d) of the Highway Safety Act of 1973 from funds authorized in section 203(c) of such Act, may be transferred from that apportionment to the apportionment made under section 219 of this title if such transfer is requested by the State highway department and is approved by the Secretary after he has received satisfactory assurances from such department that the purposes of such section 203 have been met.''

1981—Subsec. (b)(5)(A). Pub. L. 97–134, § 4(c), inserted provision that the Secretary shall include only those costs eligible for funds authorized by section 108(b) of the Federal Highway Act of 1956 in making the revised estimate of completing Interstate System for the purpose of transmitting it to the Congress within ten days subsequent to Jan. 2, 1983 or thereafter.

Subsec. (b)(5)(B). Pub. L. 97–134, § 5, inserted reference to reconstruction in opening par., substituted ''55 per centum in the ratio that lane miles on the Interstate routes designated under sections 103 and 139(c) of this title (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such lane miles in all States; and 45 per centum in the ratio that vehicle miles traveled on lanes on the Interstate routes designated under sections 103 and 139(c) of this title'' for ''Seventy-five per centum in the ratio that lane miles in use for more than five years on the Interstate System (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such lane miles in all States; and 25 per centum in the ratio that vehicle miles traveled on lanes in use for

more than five years on the Interstate System'' and inserted provision that no State excluding any State that has no interstate lane miles shall receive less than one-half of 1 per centum of the total apportionment made by this subparagraph for any fiscal year.

1978—Subsec. (b)(5)(A). Pub. L. 95–599, §108, inserted provision relating to deadline for inclusion of estimate.

Subsec. (b)(5)(B). Pub. L. 95–599, §116(b), substituted provisions limiting apportionment of funds ratio to seventy-five percent of lane miles ratio and twenty-five of miles traveled ratio for provision establishing a straight ratio for such apportionment.

Subsec. (d). Pub. L. 95–599, §109, substituted ''50'' for ''40'' and ''20'' wherever appearing.

Subsec. (h). Pub. L. 95–599, §110, added subsec. (h).

1976—Subsec. (b). Pub. L. 94–280, §112(a), substituted ''On October 1 of each fiscal year'' for ''On or before January 1 next preceding the commencement of each fiscal year,''.

Subsec. (b)(1). Pub. L. 94–280, §112(b), inserted in introductory text ''(including extensions in urban areas and priority primary routes)'', made existing provisions applicable for a two-third apportionment of monies, striking out ''in all the States at the close of the next preceding calendar year'' before ''as shown by a certificate of the Postmaster General'' and inserted provision for a one-third apportionment in the ratio which the population in urban areas in each State bears to the total population in urban areas in all the States as shown by the latest Federal census.

Subsec. (b)(3). Pub. L. 94–280, §112(c), repealed provisions respecting apportionment of monies for extensions of the Federal-aid primary and Federal-aid secondary systems within urban areas in the ratio which the population in municipalities and other urban places of five thousand or more in each State bears to the total population in municipalities and other urban places of five thousand or more in all of the States as shown by the latest available Federal census.

Subsec. (b)(5)(A). Pub. L. 94–280, §§106(b), 107(b), 112(g), designated existing provisions as subpar. (A) and inserted introductory phrase ''Except as provided in subparagraph B—''; substituted wherever appearing in introductory phrase and second and third sentences ''1990'' for ''1979''; substituted provision for apportionment for fiscal year ending September 30, 1977, for prior provision for fiscal year ending June 30, 1977, substituted provision for apportionment for fiscal year ending September 30, 1978, in accordance with section 103 of Federal-Aid Highway Act of 1976, for prior provision for apportionment for fiscal year ending June 30, 1978, substituted provision for apportionment for fiscal year ending September 30, 1979, for prior provision for fiscal year ending June 30, 1979, provided for apportionment for fiscal year ending September 30, 1980, and inserted provisions for revised estimates of completion costs and transmittal thereof to Congress within ten days subsequent to January 2, 1979, 1981, 1983, 1985, and 1987 for apportionments for fiscal years ending September 30, 1981 and 1982, 1983 and 1984, 1985 and 1986, 1987 and 1988, and 1989 and 1990; and substituted in third sentence ''October 1 of the year preceding the fiscal year for which authorized'' for ''a date as far in advance of the beginning of the fiscal year for which authorized as practicable but in no case more than eighteen months prior to the beginning of the fiscal year for which authorized''.

Subsec. (b)(5)(B). Pub. L. 94–280, §106(b), added subpar. (B).

Subsec. (c). Pub. L. 94–280, §113(a), designated existing provisions as par. (1), substituted ''Subject to subsection (d), the amount'' for ''Not more than 40 per centum of the amount'' and ''transferred from the apportionment under one paragraph to the apportionment under the other paragraph'' for ''transferred from the apportionment under one paragraph to the apportionment under any other of such paragraphs'' and struck out former last sentence reading ''The total of such transfers shall not increase the original apportionment under any of such paragraphs by more than 40 per centum.'', and incorporated former subsec. (d) provisions in a new par. (2), substituting ''Subject to subsection (d), the amount'' for ''Not more than 40 per centum of the amount'' and paragraph ''(1)'' for ''(3)'' and striking out former last sentence reading ''The total of such transfers shall not increase the original apportionment under either of such paragraphs by more than 40 per centum.''

Subsec. (d). Pub. L. 94–280, §113(a), inserted provisions respecting conditions for transfer of apportionments under subsec. (c) of this section and struck out prior subsec. (d) provisions respecting transfer of certain apportionments, now incorporated in subsec. (c)(2) of this section.

Subsec. (e). Pub. L. 94–280, §112(d), in first sentence, substituted ''On October 1'' for ''On or before January 1 preceding the commencement'' and inserted ''(other than under subsection (b)(5) of this section)'' after ''hereunder'' and inserted certification provision respecting sums apportioned under subsec. (b)(5) of this section to each State highway department and amount of deductions for administration and research; and inserted provisions advising the States not less than ninety days before the beginning of the fiscal year of amounts to be apportioned to the States and in the case of the Interstate System ninety days prior to the apportionment of funds.

Subsec. (f)(1). Pub. L. 94–280, §112(e), substituted ''On October 1'' for ''On or before January 1 next preceding the commencement'' and inserted exception provision.

Subsec. (f)(3). Pub. L. 94–280, §112(f), authorized State use of apportioned funds to finance transportation planning outside of urbanized areas.

Subsec. (g). Pub. L. 94–280, §206, increased percentage limitation to ''40 per centum'' from ''30 per centum''; authorized approval by Secretary of transfer of apportionments when requested by the State highway department and approved by the Secretary as being in the public interest; and provided for transfer of apportionments under section 203(c) and (d) of the Highway Safety Act of 1973, to apportionments under section 219 of this title, and clarified the authority for apportionment of Highway Trust Fund funds.

1973—Subsec. (b)(1). Pub. L. 93–87, §111(a)(1), (2), substituted ''intercity mail routes where service is performed by motor vehicles'' for ''star routes'' in two places, ''one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States'' for ''one-third in the ratio which the population of each State bears to the total population of all the States'', and ''No State (other than the District of Columbia) shall receive'' for ''No State shall receive''.

Subsec. (b)(2). Pub. L. 93–87, §111(a)(1), (3), substituted ''intercity mail routes where service is performed by motor vehicles'' for ''star routes'' in two places, ''one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all of the States'' for ''one-third in the ratio which the rural population of each State bears to the total rural population of all the States'', and ''No State (other than the District of Columbia) shall receive'' for ''No State shall receive''.

Subsec. (b)(5). Pub. L. 93–87, §106(b), extended from 1976 to 1979, the date for completion of the Interstate System; and authorized the Secretary to use the Federal share of the approved estimate in making apportionments for fiscal years ending June 30, 1976, 1977, 1978, and 1979, reenacted requirement that Secretary make a revised estimate of cost of completing the then designated Interstate System, substituting Jan. 2, 1975, for Jan. 2, 1974, as the commencing date for the ten day period for transmittal of the revised cost estimate, and reenacted provisions of last sentence without change, respectively.

Subsec. (b)(6). Pub. L. 93–87, §111(a)(4), substituted ''urban areas'' for ''urbanized areas'' in two places and mandated that no State shall receive less than one-half of 1 per centum of each year's apportionment.

Subsec. (c). Pub. L. 93–87, §111(a)(5), (7), substituted ''40'' for ''20'' per centum in two places and struck out

reference to par. (3) of subsec. (b) of this section and provision of last sentence that nothing contained in subsec. (c) shall alter or impair the authority contained in subsec. (d) of this section.

Subsec. (d). Pub. L. 93–87, § 111(a)(6), substituted provisions respecting transfer of apportionment of funds under pars. (3) and (6) of subsec. (b) of this section from one paragraph to the other when requested by the State highway department and approved as in the public interest by the Governor of the State and the Secretary for former provisions which authorized expenditure of subsec. (b)(2) funds apportioned for Federal-aid secondary system to a State for projects on another Federal-aid system when the State highway department and the Secretary were in joint agreement as to such other expenditure.

Subsec. (f). Pub. L. 93–87, § 112, incorporated provisions of former subsec. (f) that ''Not to exceed 50 per centum of the amounts apportioned in accordance with paragraph (3) of subsection (b) of this section may be expended for projects on the Federal-aid urban system'' in provisions designated as par. (1) and stating that ''On or before January 1 next preceding the commencement of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) of this section, shall set aside not to exceed one-half per centum of the remaining funds authorized to be appropriated for expenditure upon the Federal-aid systems, for the purpose of carrying out the requirements of section 134 of this title.'' and added pars. (2)–(4).

Subsec. (g). Pub. L. 93–87, § 227, added subsec. (g).

1970—Subsec. (b)(5). Pub. L. 91–605, § 104(b), extended from 1974 to 1976 the date for completion of the Interstate System, substituted ''on April 20, 1970'' for ''within ten days subsequent to January 2, 1970'' as the date for submission by the Secretary to Congress of a revised completion cost estimate of the Interstate System, struck out reference of finality as applied to this estimate, deleted June 30, 1974 from the enumerated list of fiscal years for which the Secretary shall use the Federal share of the approved 1970 estimate in making apportionments, inserted provision directing the Secretary to submit to Congress a revised Interstate System completion cost estimate within 10 days from Jan. 2, 1972 with apportionments to be made by the Secretary for use in the fiscal years 1974 and 1975 from the Federal share of the approved estimate, and inserted provision directing the Secretary to submit to Congress another cost estimate within 10 days from Jan. 2, 1974 to be used for making apportionments for the fiscal year 1976.

Subsec. (b)(6). Pub. L. 91–605, § 106(c)(2), added par. (6).

Subsec. (f). Pub. L. 91–605, § 106(c)(1), added subsec. (f).

1968—Subsec. (b)(5). Pub. L. 90–495 extended from 1972 to 1974 the date for completion of the Interstate System, added the fiscal year ending June 30, 1971, to the enumeration of fiscal years for which the Secretary may use the Federal share of approval estimates in making apportionments, substituted January 2, 1970, for January 2, 1969, as the date for commencement of the 10–day period during which the Secretary shall transmit to Congress his final revised estimate of the cost of completing the Interstate system, and added the fiscal years ending June 30, 1973, and June 30, 1974, to the enumerated list of fiscal years for which the Secretary shall use the Federal share of the approved estimate in making apportionments.

1966—Subsec. (b)(5). Pub. L. 89–574 substituted ''1972'' for ''1971'' wherever appearing except in provision requiring the Secretary, with the approval of Congress, to use the Federal share of the approved estimates in making apportionments for the fiscal year ending June 30, 1971, and, in such provision, retained the authority of the Secretary to use the Federal share of the approved estimates in making apportionments for the fiscal year ending June 30, 1971, but extended the authority of the Secretary to use the Federal share of the approved estimates in making apportionments for the fiscal year ending June 30, 1972, as well.

1964—Subsec. (b)(5). Pub. L. 88–423 substituted ''January 2, 1961'' for ''January 2, 1962''.

1963—Subsec. (b)(3). Pub. L. 88–157, § 2, struck out provision which considered Connecticut and Vermont towns as municipalities for the purposes of par. (3) regardless of their incorporated status.

Subsec. (b)(5). Pub L. 88–157, § 3, substituted ''1971'' for ''1969'' in introductory text and 3d sentence; inserted ''For the fiscal years 1960 through 1966,'' and substituted ''such State'' for ''each State'' in 1st sentence; inserted 2d sentence respecting apportionment for fiscal years 1967 through 1971; substituted in 9th sentence ''January 2, 1965'' for ''January 2, 1966, and annually thereafter through and including January 2, 1968''; substituted in 10th sentence ''Upon the approval of such estimate by the Congress'' for ''Upon approval of any such estimate by the Congress by concurrent resolution'' and ''fiscal years ending June 30, 1967; June 30, 1968; and June 30, 1969'' for ''fiscal year which begins next following the fiscal year in which such report is transmitted to the Senate and the House of Representatives'' and inserted ''the Federal share of'' before ''such approved estimate''; and inserted 11th through 14th sentences, respecting revised cost estimate for completion of the Interstate System and its submission to Congress within 10 days after Jan. 2, 1968, apportionment for fiscal year ending June 30, 1970, final revised cost estimate for completion of the Interstate System and its submission to Congress within 10 days after Jan. 2, 1969, and apportionment for fiscal year ending June 30, 1971, respectively.

1962—Subsec. (b)(1). Pub. L. 87–866 substituted ''preceding calendar year'' for ''preceding fiscal year''.

1960—Subsec. (b)(5). Pub L. 86–657 struck out provisions which required, in making the estimates of cost for completing the Interstate System, exclusion of the cost of completing any mileage designated from the one thousand additional miles authorized by section 108(1) of the Federal-Aid Highway Act of 1956.

1959—Subsec. (b). Pub. L. 86–70 struck out '', except that only one-third of the area of Alaska shall be included'' after ''total area of all States'' in pars. (1) and (2).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–244, title I, § 101(i), June 6, 2008, 122 Stat. 1574, provided that the amendment made by section 101(i) is effective Oct. 1, 2007.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–178 effective Aug. 21, 2002, see section 5 of Pub. L. 108–178, set out as a note under section 5334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–159 effective Jan. 1, 2000, see section 107(a) of Pub. L. 106–159, set out as a note under section 104 of Title 49, Transportation.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 1100 of title I of Pub. L. 102–240 provided that:

''(a) GENERAL RULE.—This title [see Tables for classification], including the amendments made by this title, shall take effect on the date of the enactment of this Act [Dec. 18, 1991].

''(b) APPLICABILITY.—The amendments made by this title shall apply to funds authorized to be appropriated or made available after September 30, 1991, and, except as otherwise provided in subsection (c), shall not apply to funds appropriated or made available on or before September 30, 1991.

''(c) UNOBLIGATED BALANCES.—

''(1) IN GENERAL.—Unobligated balances of funds apportioned to a State under sections 104(b)(1), 104(b)(2), 104(b)(5)(B), and 104(b)(6) of title 23, United States Code, before October 1, 1991, shall be available for obligation in that State under the law, regulations, policies and procedures relating to the obligation and expenditure of those funds in effect on September 30, 1991.

''(2) TRANSFERABILITY.—

''(A) PRIMARY SYSTEM.—A State may transfer unobligated balances of funds apportioned to the State for the Federal-aid primary system before October 1, 1991, to the apportionment to such State under section 104(b)(1) or 104(b)(3) of title 23, United States Code, or both.

''(B) SECONDARY AND URBAN SYSTEM.—A State may transfer unobligated balances of funds apportioned to the State for the Federal-aid secondary system or the Federal-aid urban system before October 1, 1991, to the apportionment to such State under section 104(b)(3) of such title.

''(C) APPLICABILITY OF CERTAIN LAWS, REGULATIONS, POLICIES, AND PROCEDURES.—Funds transferred under this paragraph shall be subject to the laws, regulations, policies, and procedures relating to the apportionment to which they are transferred.''

EFFECTIVE DATE OF 1976 AMENDMENT; APPLICABLE PROVISIONS DEPENDENT ON FISCAL FUND AUTHORIZATIONS

Section 113(b) of Pub. L. 94–280 provided that: ''The amendment made by subsection (a) of this section [amending this section] shall take effect on July 1, 1976, and shall be applicable with respect to funds authorized for the fiscal year ending September 30, 1977, and for subsequent fiscal years. With respect to the fiscal year 1976 and earlier fiscal years, the provisions of subsections (c) and (d) of section 104 of title 23, United States Code, as in effect on June 30, 1976, shall remain applicable to funds authorized for such years.''

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–495 effective Aug. 23, 1968, see section 37 of Pub. L. 90–495, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 10(b) of Pub. L. 87–866 provided that: ''The amendment made by subsection (a) of this section [amending this section] shall be applicable only with respect to apportionments made after the date of enactment of this Act [Oct. 23, 1962].''

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86–70 effective July 1, 1959, see section 21(e) of Pub. L. 86–70, set out as a note under section 101 of this title.

CONSTRUCTION OF 1990 AMENDMENT

Section 333(d) of Pub. L. 102–143 provided that: ''The amendments made by section 333 of the Department of Transportation and Related Agencies Appropriations Act, 1991 (104 Stat. 2184–2186) [Pub. L. 101–516, amending this section and enacting provisions formerly set out as a note below] shall be treated as having not been enacted into law.''

FEDERAL-AID HIGHWAYS APPROPRIATIONS

Pub. L. 109–289, div. B, title II, §21010, as added by Pub. L. 110–5, §2, Feb. 15, 2007, 121 Stat. 48, provided that: ''Notwithstanding section 101 [42 U.S.C. 12651i note, 121 Stat. 8], the level for 'Federal Highway Administration, Federal-Aid Highways (Limitation on Obligations) (Highway Trust Fund)' shall be $39,086,464,683.''

[For definition of ''level'' as used in section 21010 of Pub. L. 109–289, set out above, see section 101(b) of Pub. L. 109–289, set out as a note under section 12651i of Title 42, The Public Health and Welfare.]

ADJUSTMENTS FOR SURFACE TRANSPORTATION EXTENSION ACT OF 1997

Pub. L. 105–178, title I, §1103(m), June 9, 1998, 112 Stat. 126, provided that:

''(1) IN GENERAL.—Notwithstanding any other provision of law and subject to section 2(c) of the Surface Transportation Extension Act of 1997 [Pub. L. 105–130, set out below], the Secretary shall ensure that the total apportionments for a State (other than Massachusetts) for fiscal year 1998 made under the Transportation Equity Act for the 21st Century [Pub. L. 105–178, see Tables for classification] (including amendments made by such Act) shall be reduced by the amount apportioned to such State (other than Massachusetts) under section 1003(d)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 [Pub. L. 102–240, 111 Stat. 2553].

''(2) REPAYMENT OF TRANSFERRED FUNDS.—The Secretary shall ensure that any apportionments made to a State for fiscal year 1998 and adjusted under paragraph (1) shall first be used to restore in accordance with section 3(c) of the Surface Transportation Extension Act of 1997 [Pub. L. 105–130, 111 Stat. 2555] any funds that a State transferred under section 3 of such Act.

''(3) INSUFFICIENT FUNDS FOR REPAYMENT.—If a State has insufficient funds apportioned in fiscal year 1998 under the Transportation Equity Act for the 21st Century (including amendments made by such Act) to make the adjustment required by paragraph (1), then the Secretary shall make an adjustment to any funds apportioned to such State in fiscal year 1999.

''(4) ALLOCATED PROGRAMS.—Notwithstanding any other provision of law, amounts made available for fiscal year 1998 by the Transportation Equity Act for the 21st Century (including amendments made by such Act) for a program that is continued by both of sections 4, 5, 6, and 7 of the Surface Transportation Extension Act of 1997 (including amendments made by such sections) [Pub. L. 105–130, see Tables for classification] and the Transportation Equity Act for the 21st Century (including amendments made by such Act) shall be reduced by the amount made available by such sections 4, 5, 6, and 7 for such programs.

''(5) TREATMENT OF STEA OBLIGATION AUTHORITY.—The amount of obligation authority made available under section 2(e) of the Surface Transportation Extension Act of 1997 [Pub. L. 105–130, set out below] shall be considered to be an amount of obligation authority made available for fiscal year 1998 under section 1102(a) of this Act [set out above].''

ADVANCES

Pub. L. 109–59, title I, §1936, Aug. 10, 2005, 119 Stat. 1510, provided that: ''Notwithstanding any other provision of law, funds apportioned to a State under section 104(b) of title 23, United States Code, may be obligated to carry out a project designated in any of sections 1301, 1302, 1306, and 1934 of this Act [see Tables for classification] and sections 117 and 144(g) [now 144(f)] of title 23, United States Code, in an amount not to exceed the amount authorized for that project, only from a program under which the project would be eligible, except that any amounts obligated to carry out the project shall be restored from funds allocated for the project.''

Pub. L. 108–310, §2, Sept. 30, 2004, 118 Stat. 1144, as amended by Pub. L. 109–14, §2(a)–(b)(2), (d), May 31, 2005, 119 Stat. 324; Pub. L. 109–20, §2(a), (b)(1), (d), July 1, 2005, 119 Stat. 346; Pub. L. 109–35, §2(a), (b)(1), (d), July 20, 2005, 119 Stat. 379; Pub. L. 109–37, §2(a), (b)(1), (d), July 22, 2005, 119 Stat. 394; Pub. L. 109–40, §2(a), (b)(1), (d), July 28, 2005, 119 Stat. 410; Pub. L. 109–42, §2(b), July 30, 2005, 119 Stat. 435, provided that:

''(a) IN GENERAL.—

''(1) APPORTIONMENT RATIO.—Except as provided in paragraph (2), the Secretary of Transportation shall

apportion funds made available under section 1101(*l*) of the Transportation Equity Act for the 21st Century [Pub. L. 105–178] (112 Stat. 111; 118 Stat. 876 [118 Stat. 1145]), as amended by this Act, the Surface Transportation Extension Act of 2005 [Pub. L. 109–14],,[sic] the Surface Transportation Extension Act of 2005, Part II [Pub. L. 109–20][,] the Surface Transportation Extension Act of 2005, Part III [Pub. L. 109–35], the Surface Transportation Extension Act of 2005, Part IV [Pub. L. 109–37], and the Surface Transportation Extension Act of 2005, Part V [Pub. L. 109–40], to each State in the ratio that—

''(A) the State's total fiscal year 2004 obligation authority for funds apportioned for the Federal-aid highway program; bears to

''(B) all States' total fiscal year 2004 obligation authority for funds apportioned for the Federal-aid highway program.

''(2) EXCEPTION.—The ratios determined under this subsection shall be subject to the same adjustments as the adjustments made under section 105(f) of title 23, United States Code.

''(b) PROGRAMMATIC DISTRIBUTIONS.—

''(1) PROGRAMS.—Of the funds to be apportioned to each State under subsection (a), the Secretary shall ensure that the State is apportioned an amount of the funds, determined under paragraph (2), for the Interstate maintenance program, the National Highway System program, the bridge program, the surface transportation program, the congestion mitigation and air quality improvement program, the recreational trails program, the Appalachian development highway system program, and the minimum guarantee.

''(2) IN GENERAL.—The amount that each State shall be apportioned under this subsection for each item referred to in paragraph (1) shall be determined by multiplying—

''(A) the amount apportioned to the State under subsection (a); by

''(B) the ratio that—

''(i) the amount of funds apportioned for the item to the State for fiscal year 2004; bears to

''(ii) the total of the amount of funds apportioned for the items to the State for fiscal year 2004.

''(3) ADMINISTRATION OF FUNDS.—Funds authorized by section 1101(*l*) of the Transportation Equity Act for the 21st Century [Pub. L. 105–178, 118 Stat. 1145] shall be administered as if the funds had been apportioned, allocated, deducted, or set aside, as the case may be, under title 23, United States Code; except that the deductions and set-asides in the following sections of such title shall not apply to such funds: sections 104(a)(1)(A), 104(a)(1)(B), 104(b)(1)(A), 104(d)(1), 104(d)(2), 104(f)(1), 104(h)(1), 118(c)(1), 140(b), 140(c), and 144(g)(1) [now 144(f)(1)].

''(4) SPECIAL RULES FOR MINIMUM GUARANTEE.—In carrying out the minimum guarantee under section 105(c) of title 23, United States Code, with funds apportioned under this section for the minimum guarantee, the $2,800,000,000 set forth in paragraph (1) of such section 105(c) shall be treated as being $2,324,000,000 and the aggregate of amounts apportioned to the States under this section for the minimum guarantee shall be treated, for purposes of such section 105(c), as amounts made available under section 105 of such title.

''(5) EXTENSION OF OFF-SYSTEM BRIDGE SETASIDE.—[Amended section 144 of this title.]

''(c) REPAYMENT FROM FUTURE APPORTIONMENTS.—

''(1) IN GENERAL.—The Secretary shall reduce the amount that would be apportioned, but for this section, to a State for programs under chapter 1 of title 23, United States Code, for fiscal year 2005, under a multiyear law reauthorizing the Federal-aid highway program enacted after the date of enactment of this Act [Sept. 30, 2004] by the amount that is apportioned to each State under subsection (a) and section 5(c) [118 Stat. 1150] for each such program.

''(2) PROGRAM CATEGORY RECONCILIATION.—The Secretary may establish procedures under which funds apportioned under subsection (a) for a program category for which funds are not authorized under a law described in paragraph (1) may be restored to the Federal-aid highway program.

''(d) AUTHORIZATION OF CONTRACT AUTHORITY.—[Amended section 1101 of Pub. L. 105–178, 112 Stat. 111.]

''(e) LIMITATION ON OBLIGATIONS.—

''(1) DISTRIBUTION OF OBLIGATION AUTHORITY.—Subject to paragraph (2), for the period of October 1, 2004, through July 30, 2005, the Secretary shall distribute the obligation limitation made available for Federal-aid highways and highway safety construction programs under the heading 'federal-aid highways' in title I of division H of the Consolidated Appropriations Act, 2005 [Pub. L. 108–447] (23 U.S.C. 104 note; 118 Stat. 3204), in accordance with section 110 of such title (23 U.S.C. 104 note; 118 Stat. 3209); except that the amount of obligation limitation to be distributed for such period for each program, project, and activity specified in sections 110(a)(1), 110(a)(2), 110(a)(4), and 110(a)(5) of such title shall equal the greater of—

''(A) the funding authorized for such program, project, or activity in this Act [see Short Title of 2004 Amendments note set out under section 101 of this title], the Surface Transportation Extension Act of 2005 [Pub. L. 109–14],,[sic] the Surface Transportation Extension Act of 2005, Part II [Pub. L. 109–20][,] the Surface Transportation Extension Act of 2005, Part III [Pub. L. 109–35], the Surface Transportation Extension Act of 2005, Part IV [Pub. L. 109–37], and the Surface Transportation Extension Act of 2005, Part V [Pub. L. 109–40] (including any amendments made by this Act and such Act[s]); or

''(B) 83 percent of the funding provided for or limitation set on such program, project, or activity in title I of division H of the Consolidated Appropriations Act, 2005 [Pub. L. 108–447, see Tables for classification].

''(2) LIMITATION ON TOTAL AMOUNT OF AUTHORITY DISTRIBUTED.—The total amount of obligation limitation distributed under paragraph (1) for the period of October 1, 2004, through July 30, 2005, shall not exceed $28,801,000,000; except that this limitation shall not apply to $530,370,000 in obligations for minimum guarantee for such period.

''(3) TIME PERIOD FOR OBLIGATIONS OF FUNDS.—After August 14, 2005, no funds shall be obligated for any Federal-aid highway program project until the date of enactment of a law reauthorizing the Federal-aid highway program.

''(4) TREATMENT OF OBLIGATIONS.—Any obligation of obligation authority distributed under this subsection shall be considered to be an obligation for Federal-aid highways and highway safety construction programs for fiscal year 2005 for the purposes of the matter under the heading 'federal-aid highways' in title I of division H of the Consolidated Appropriations Act, 2005 [Pub. L. 108–447] (23 U.S.C. 104 note; 118 Stat. 3204).''

Pub. L. 108–88, § 2, Sept. 30, 2003, 117 Stat. 1110, as amended by Pub. L. 108–202, § 2(a), (b)(1), (2), (d), Feb. 29, 2004, 118 Stat. 478; Pub. L. 108–224, § 2(a), (b)(1), (d), Apr. 30, 2004, 118 Stat. 627; Pub. L. 108–263, § 2(a), (b)(1), (d), June 30, 2004, 118 Stat. 698; Pub. L. 108–280, §§ 2(a), (b)(1), (d), 3, July 30, 2004, 118 Stat. 876, 877; Pub. L. 108–310, § 12(a), (c), (e)(1), Sept. 30, 2004, 118 Stat. 1161, 1162, provided that:

''(a) IN GENERAL.—The Secretary of Transportation shall apportion funds made available under section 1101(c) of the Transportation Equity Act for the 21st Century [Pub. L. 105–178] (112 Stat. 116), as amended by this Act [117 Stat. 1111], the Surface Transportation Extension Act of 2004 [Pub. L. 108–202], the Surface Transportation Extension Act of 2004, Part II [Pub. L. 108–224], the Surface Transportation Extension Act of 2004, Part III [Pub. L. 108–263], the Surface Transportation Extension Act of 2004, Part IV [Pub. L. 108–280], and the Surface Transportation Extension Act of 2004,

Part V [Pub. L. 108–310], to each State in the ratio that—

''(1) the State's total fiscal year 2003 obligation authority for funds apportioned for the Federal-aid highway program; bears to

''(2) all States' total fiscal year 2003 obligation authority for funds apportioned for the Federal-aid highway program.

''(b) PROGRAMMATIC DISTRIBUTIONS.—

''(1) PROGRAMS.—Of the funds to be apportioned to each State under subsection (a), the Secretary shall ensure that the State is apportioned an amount of the funds, determined under paragraph (2), for the Interstate maintenance program, the National Highway System program, the bridge program, the surface transportation program, the congestion mitigation and air quality improvement program, the recreational trails program, the Appalachian development highway system program, and the minimum guarantee.

''(2) IN GENERAL.—The amount that each State shall be apportioned under this subsection for each item referred to in paragraph (1) shall be determined by multiplying—

''(A) the amount apportioned to the State under subsection (a); by

''(B) the ratio that—

''(i) the amount of funds apportioned for the item to the State for fiscal year 2003; bears to

''(ii) the total of the amount of funds apportioned for the items to the State for fiscal year 2003.

''(3) ADMINISTRATION OF FUNDS.—Funds authorized by section 1101(c) of the Transportation Equity Act for the 21st Century shall be administered as if the funds had been apportioned, allocated, deducted, or set aside, as the case may be, under title 23, United States Code; except that the deductions and set-asides in the following sections of such title shall not apply to such funds: sections 104(a)(1)(A), 104(a)(1)(B), 104(b)(1)(A), 104(d)(1), 104(d)(2), 104(f)(1), 104(h)(1), 118(c)(1), 140(b), 140(c), and 144(g)(1) [now 144(f)(1)].

''(4) SPECIAL RULES FOR MINIMUM GUARANTEE.—In carrying out the minimum guarantee under section 105(c) of title 23, United States Code, with funds apportioned under this section for the minimum guarantee, the $2,800,000,000 set forth in paragraph (1) of such section 105(c) shall be treated as being $2,800,000,000 and the aggregate of amounts apportioned to the States under this section for the minimum guarantee shall be treated, for purposes of such section 105(c), as amounts made available under section 105 of such title.

''(5) EXTENSION OF OFF-SYSTEM BRIDGE SETASIDE.—[Amended section 144 of this title.]

''[(c) Repealed. Pub. L. 108–310, §12(e)(1), Sept. 30, 2004, 118 Stat. 1162.]

''(d) AUTHORIZATION OF CONTRACT AUTHORITY.—[Amended section 1101 of Pub. L. 105–178, 112 Stat. 111.]

''(e) LIMITATION ON OBLIGATIONS.—

''(1) DISTRIBUTION OF OBLIGATION AUTHORITY.—For the fiscal year 2004, the Secretary shall distribute the obligation limitation made available for Federal-aid highways and highway safety construction programs under the heading 'Federal-aid highways' in the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (division F of Public Law 108–199; 118 Stat. 291 [290]; 118 Stat. 1013), in accordance with section 110 of such Act [23 U.S.C. 104 note].

''(2) CALCULATION OF RATIO.—For purposes of the calculation of the ratio under section 110(a)(3) of the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (division F of Public Law 108–199; 118 Stat. 291; 23 U.S.C. 104 note)—

''(A) the obligation limitation for Federal-aid Highways referred to in section 110(a)(3)(A) of such Act shall be deemed to be the obligation limitation for Federal-aid highways and highway safety construction programs for fiscal year 2004 identified under the heading 'FEDERAL-AID HIGHWAYS' in such Act (118 Stat. 290); and

''(B) the total of sums authorized to be appropriated for Federal-aid highways and highway safety construction programs (other than sums authorized to be appropriated for sections set forth in paragraphs (1) through (7) of section 110(b) of such Act and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection 110(b)(8) of such Act) for such fiscal year, referred to in section 110(a)(3)(B) of such Act, shall be deemed to be $34,606,000,000, less the aggregate of the amounts not distributed under section 110(a)(1) of such Act.''

Section 2 of Pub. L. 105–130 provided that:

''(a) IN GENERAL.—The Secretary of Transportation (referred to in this Act as the 'Secretary') shall apportion funds made available under section 1003(d) of the Intermodal Surface Transportation Efficiency Act of 1991 [see 111 Stat. 2553] to each State in the ratio that—

''(1) the State's total fiscal year 1997 obligation authority for funds apportioned for the Federal-aid highway program; bears to

''(2) all States' total fiscal year 1997 obligation authority for funds apportioned for the Federal-aid highway program.

''(b) PROGRAMMATIC DISTRIBUTIONS.—

''(1) PROGRAMS.—Of the funds to be apportioned to each State under subsection (a), the Secretary shall ensure that the State is apportioned an amount of the funds, determined under paragraph (2), for the Interstate maintenance program, the National Highway System, the bridge program, the surface transportation program, the congestion mitigation and air quality improvement program, minimum allocation under section 157 of title 23, United States Code, Interstate reimbursement under section 160 of that title, the donor State bonus under section 1013(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1940) [Pub. L. 102–240, set out as a note under section 157 of this title], hold harmless under section 1015(a) of that Act (105 Stat. 1943) [set out below], 90 percent of payments adjustments under section 1015(b) of that Act (105 Stat. 1944) [set out below], section 1015(c) of that Act (105 Stat. 1944) [set out below], an amount equal to the funds provided under sections 1103 through 1108 of that Act (105 Stat. 2027) [see Tables for classification], and funding restoration under section 202 of the National Highway System Designation Act of 1995 (109 Stat. 571).

''(2) IN GENERAL.—The amount that each State shall be apportioned under this subsection for each item referred to in paragraph (1) shall be determined by multiplying—

''(A) the amount apportioned to the State under subsection (a); by

''(B) the ratio that—

''(i) the amount of funds apportioned for the item, or allocated under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027), to the State for fiscal year 1997; bears to

''(ii) the total of the amount of funds apportioned for the items, and allocated under those sections, to the State for fiscal year 1997.

''(3) USE OF FUNDS.—Amounts apportioned to a State under subsection (a) attributable to sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 shall be available to the State for projects eligible for assistance under chapter 1 of title 23, United States Code.

''(4) ADMINISTRATION.—Funds authorized by the amendment made by subsection (d) shall be administered as if they had been apportioned, allocated, deducted, or set aside, as the case may be, under title 23, United States Code; except that the deduction under section 104(a) of title 23, United States Code, the set-asides under section 104(b)(1) of that title for the territories and under section 104(f)(1) of that title for metropolitan planning, and the expenditure required under section 104(d)(1) of that title shall not apply to those funds.

''(c) REPAYMENT FROM FUTURE APPORTIONMENTS.—

''(1) IN GENERAL.—The Secretary shall reduce the amount that would, but for this section, be apportioned to a State for programs under chapter 1 of title 23, United States Code, for fiscal year 1998 under a law reauthorizing the Federal-aid highway program enacted after the date of enactment of this Act [Dec. 1, 1997] by the amount that is apportioned to each State under subsection (a) and section 5(f) [Pub. L. 105–130, 111 Stat. 2558] for each such program.

''(2) PROGRAM CATEGORY RECONCILIATION.—The Secretary may establish procedures under which funds apportioned under subsection (a) for a program category for which funds are not authorized under a law described in paragraph (1) may be restored to the Federal-aid highway program.

''(d) AUTHORIZATION OF CONTRACT AUTHORITY.—[Amended section 1003 of Pub. L. 102–240.]

''(e) LIMITATION ON OBLIGATIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), after the date of enactment of this Act [Dec. 1, 1997], the Secretary shall allocate to each State an amount of obligation authority made available under the Department of Transportation and Related Agencies Appropriations Act, 1998 (Public Law 105–66 [see Tables for classification]) that is—

''(A) equal to the greater of—

''(i) the State's unobligated balance, as of October 1, 1997, of Federal-aid highway apportionments subject to any limitation on obligations; or

''(ii) 50 percent of the State's total fiscal year 1997 obligation authority for funds apportioned for the Federal-aid highway program; but

''(B) not greater than 75 percent of the State's total fiscal year 1997 obligation authority for funds apportioned for the Federal-aid highway program.

''(2) LIMITATION ON AMOUNT.—The total of all allocations under paragraph (1) shall not exceed $9,786,275,000.

''(3) TIME PERIOD FOR OBLIGATIONS OF FUNDS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a State shall not obligate any funds for any Federal-aid highway program project after May 1, 1998, until the earlier of the date of enactment of a multiyear law reauthorizing the Federal-aid highway program or July 1, 1998.

''(B) REOBLIGATION.—Subparagraph (A) shall not preclude the reobligation of previously obligated funds.

''(C) DISTRIBUTION OF REMAINING OBLIGATION AUTHORITY.—On the earlier of the date of enactment of a law described in subparagraph (A) or July 1, 1998, the Secretary shall distribute to each State any remaining amounts of obligation authority for Federal-aid highways and highway safety construction programs by allocation in accordance with section 310(a) of the Department of Transportation and Related Agencies Appropriations Act, 1998 (Public Law 105–66) [set out below].

''(D) CONTRACT AUTHORITY.—No contract authority made available to the States prior to July 1, 1998, shall be obligated after that date until such time as a multiyear law reauthorizing the Federal-aid highway program has been enacted.

''(4) TREATMENT OF OBLIGATIONS.—Any obligation of an allocation of obligation authority made under this subsection shall be considered to be an obligation for Federal-aid highways and highway safety construction programs for fiscal year 1998 for the purposes of the matter under the heading '(LIMITATION ON OBLIGATIONS)' under the heading 'FEDERAL-AID HIGHWAYS' in title I of the Department of Transportation and Related Agencies Appropriations Act, 1998 (Public Law 105–66 [111 Stat. 1431]).''

EFFECT OF LIMITATION ON APPORTIONMENT

Section 319(c) of Pub. L. 104–59 provided that: ''Notwithstanding any other provision of law, for each of fiscal years 1996 and 1997, the amendments made by subsection (a) [amending this section and section 149 of this title] shall not affect any apportionment adjustments under section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1943) [Pub. L. 102–240, set out below].''

COMPLETION OF INTERSTATE SYSTEM

Section 1001(a) of Pub. L. 102–240 provided that: ''Congress declares that the authorizations of appropriations and apportionments for construction of the Dwight D. Eisenhower National System of Interstate and Defense Highways [now Dwight D. Eisenhower System of Interstate and Defense Highways] made by this section (including the amendments made by this section [amending this section and section 101 of this title]) are the final authorizations of appropriations and apportionments for completion of construction of such System.''

APPORTIONMENT ADJUSTMENTS

Section 1015 of Pub. L. 102–240 provided that:

''(a) HOLD HARMLESS.—

''(1) GENERAL RULE.—The amount of funds which, but for this subsection, would be apportioned to a State for each of the fiscal years 1992 through 1997 under section 104(b)(3) of title 23, United States Code, for the surface transportation program shall be increased or decreased by an amount which, when added to or subtracted from the aggregate amount of funds apportioned to the State for such fiscal year and funds allocated to the State for the prior fiscal year under section 104(b) of such title, section 103(e)(4) for Interstate highway substitute, section 144 of such title, section 157 of such title, under section 202 of such title for the Federal lands highways program, section 160 of such title for the reimbursement program, and section 1013(c) of this Act [23 U.S.C. 157 note] for the donor State bonus program, will result in the percentage of amounts so apportioned and allocated to all States being equal to the percentage listed for such State in paragraph (2).

''(2) STATE PERCENTAGES.—For purposes of paragraph (1) the percentage of amounts apportioned and allocated which are referred to in paragraph (1) for each State, and the District of Columbia shall be determined in accordance with the following table:

States	Adjustment Percentage
Alabama	1.74
Alaska	1.28
Arizona	1.49
Arkansas	1.20
California	9.45
Colorado	1.35
Connecticut	1.78
Delaware	0.41
District of Columbia	0.53
Florida	4.14
Georgia	2.97
Hawaii	0.57
Idaho	0.69
Illinois	3.72
Indiana	2.20
Iowa	1.25
Kansas	1.14
Kentucky	1.52
Louisiana	1.55
Maine	0.50
Maryland	1.69
Massachusetts	4.36
Michigan	2.81
Minnesota	1.58
Mississippi	1.15
Missouri	2.23
Montana	0.97
Nebraska	0.83
Nevada	0.64

New Hampshire	0.48
New Jersey	2.87
New Mexico	1.08
New York	5.37
North Carolina	2.65
North Dakota	0.62
Ohio	3.73
Oklahoma	1.42
Oregon	1.26
Pennsylvania	4.38
Rhode Island	0.54
South Carolina	1.41
South Dakota	0.71
Tennessee	2.08
Texas	6.36
Utah	0.77
Vermont	0.44
Virginia	2.27
Washington	2.06
West Virginia	0.94
Wisconsin	1.70
Wyoming	0.67

''(b) 90 PERCENT OF PAYMENT ADJUSTMENTS.—

''(1) GENERAL RULE.—For each of fiscal years 1992 through 1997, the Secretary shall allocate among the States amounts sufficient to ensure that a State's total apportionments for such fiscal year and allocations for the prior fiscal year under section 104(b) of such title, section 103(e)(4) for Interstate highway substitute, section 144 of such title, section 157 of such title, section 202 of such title for the Federal lands highways program, section 1013(c) of this Act [23 U.S.C. 157 note] for the donor State bonus program, section 160 of such title for the reimbursement program, and subsection (a) of this section for hold harmless is not less than 90 percent of the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than Mass Transit Account) in the latest fiscal year in which data is available.

''(2) TRANSFER OF ALLOCATED AMOUNTS TO STP APPORTIONMENT.—Subject to subsection (d) of this section, the Secretary shall transfer amounts allocated to a State pursuant to paragraph (1) to the apportionment of such State under section 104(b)(3) for the surface transportation program.

''(c) ADDITIONAL ALLOCATION.—Subject to subsection (d) of this section, the Secretary shall allocate to the State of Wisconsin $40,000,000 for fiscal year 1992 and $47,800,000 for each of fiscal years 1993 through 1997 and transfer such amounts to the apportionment of such State under section 104(b)(3) of title 23, United States Code, for the surface transportation program.

''(d) LIMITATION ON APPLICABILITY OF CERTAIN REQUIREMENTS OF STP PROGRAM.—The following provisions of section 133 of title 23, United States Code, shall not apply to ½ of the amounts added under subsection (a) to the apportionment of the State for the surface transportation program and of amounts transferred under subsections (b) and (c) to such apportionment:

''(1) Subsection (d)(1).

''(2) Subsection (d)(2).

''(3) Subsection (d)(3).

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), to carry out this section such sums as may be necessary for each of fiscal years 1992 through 1997.''

ALLOCATION FORMULA STUDY

Section 1098 of Pub. L. 102–240, as amended by Pub. L. 104–59, title III, §325(g), Nov. 28, 1995, 109 Stat. 592, directed General Accounting Office in conjunction with Bureau of Transportation Statistics to conduct thorough study and recommend to Congress within 2 years after Dec. 18, 1991, a fair and equitable apportionment formula for allocation of Federal-aid highway funds that best directs highway funds to places of greatest need for highway maintenance and enhancement based on extent of these highway systems, their present use, and increases in their use, with results of study to be presented to Congress on or before Jan. 1, 1994, and to be considered by Congress in the 1996 reauthorization of surface transportation program.

STUDY ON IMPACT OF CLIMATIC CONDITIONS

Pub. L. 102–240, title I, §§1101–1102, Dec. 18, 1991, 105 Stat. 2027, directed Secretary of Transportation to conduct a study of effects of climatic conditions on costs of highway construction and maintenance and to transmit to Congress, not later than Sept. 30, 1993, a report on the results of the study, prior to repeal by Pub. L. 105–362, title XV, §1501(d), Nov. 10, 1998, 112 Stat. 3294.

WITHHOLDING OF FIVE PER CENTUM OF FUNDS FOR STATES FAILING TO MEET REQUIREMENTS

Section 333 [part] of Pub. L. 101–516, which for each fiscal year directed Secretary of Transportation to withhold five per centum of the amount required to be apportioned to any State under each of paragraphs (1), (2), (5), and (6) of section 104(b) of this title on the first day of each fiscal year which begins after the second full calendar year following Nov. 5, 1990, if State does not meet the requirements of paragraph (3) on such date, was repealed by Pub. L. 102–143, title III, §333(c), Oct. 28, 1991, 105 Stat. 947.

REDUCTION IN AMOUNT STATES FAILING TO AUTHORIZE TAX-BASED SOURCES OF REVENUE MAY OBLIGATE

Section 341 of Pub. L. 101–516, as amended by Pub. L. 102–240, title III, §3003(b), Dec. 18, 1991, 105 Stat. 2088, provided that:

''(a) Notwithstanding any other provision of law, for the period January 1, 1992, through December 31, 1992, the Secretary of Transportation shall reduce the aggregate amount which a State may obligate for Federal-aid highways and highway safety construction programs by 25 percent if such State has a public authority which provides mass transportation for an urbanized area of such State with a population of 3,000,000 or more as determined under the 1980 decennial census of the United States, and if by October 1, 1991—

''(1) laws of such State do not authorize a general tax-based source of revenues to take effect on or before January 1, 1992, dedicated to paying the non-Federal share of projects for mass transportation eligible for assistance under the Federal Transit Act [now 49 U.S.C. 5301 et seq.]; or

''(2) the laws of such State do not authorize the establishment of regional or local tax-based sources of revenues dedicated to pay such non-Federal share or for paying operating expenses of mass transit service so as to satisfy financial capacity standards as may be required by the Secretary of Transportation.

''(b) For purposes of this section, the terms 'mass transportation', 'State', and 'urbanized areas' have the meaning such terms have under section 12 of the Federal Transit Act [now 49 U.S.C. 5302].

''(c) Any withholding defined under this section shall be waived if the Governor of the State—

''(1) submits to the Secretary by October 1, 1991, a written certification stating that he is opposed to the enactment in his State of a law described in subsections (a)(1) and (2) and that funding as described in subsections (a)(1) and (2) would not improve public transportation safety; and

''(2) submits to the Secretary a written certification that the legislature (including both Houses where applicable) has adopted a resolution by a simple majority expressing its opposition to a law described in subsections (a)(1) and (2).

''(d) This section shall remain in effect until December 31, 1992.''

Pub. L. 102–27, title IV, §404(b), Apr. 10, 1991, 105 Stat. 155, provided that: ''The Secretary of Transportation

shall restore any reductions in obligation authority made under section 329 [of Pub. L. 101–516, formerly set out below] prior to its repeal.''

Similar provisions were contained in Pub. L. 101–516, title III, § 329, Nov. 5, 1990, 104 Stat. 2183, which was repealed by Pub. L. 102–27, title IV, § 404(a), Apr. 10, 1991, 105 Stat. 155.

IMPLEMENTATION OF CERTAIN PRESIDENTIAL ORDERS REQUIRING PERCENTAGE REDUCTION FOR FEDERAL-AID HIGHWAY, MASS TRANSIT, AND HIGHWAY SAFETY PROGRAMS

Section 136 of Pub. L. 100–17 provided that: ''In implementing any order issued by the President which provides for or requires a percentage reduction in new budget authority, unobligated balances, obligated balances, new loan guarantee commitments, new direct loan obligations, spending authority, or obligation limitations for the Federal-aid highway, mass transit and highway safety programs and with respect to which the budget account activity as identified in the program and financing schedule contained in the Appendix to the Budget of the United States Government for such programs includes more than one specific highway, mass transit, or highway safety program or project for which budget authority is provided by this Act or an amendment made by this Act [see Short Title of 1987 Amendment note set out under section 101 of this title], the Secretary shall apply the percentage reduction equally to each such specific program or project.''

FEDERAL-AID PRIMARY FORMULA FOR AMOUNTS AUTHORIZED FOR FISCAL YEARS 1983 THROUGH 1991

Pub. L. 97–424, title I, § 108(a)–(e), Jan. 6, 1983, 96 Stat. 2103, as amended by Pub. L. 100–17, title I, §§ 107, 133(a)(1), Apr. 2, 1987, 101 Stat. 146, 170, provided that:

''(a) Notwithstanding section 104(b)(1) of title 23, United States Code, and any other provision of law, amounts authorized for fiscal years 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, and 1991 for the Federal-aid primary system (including extensions in urban areas and priority primary routes) shall be apportioned in accordance with this section. The Secretary of Transportation shall determine for each State the higher of (1) the amount which would be apportioned to such State under section 104(b)(1) of title 23, United States Code, and (2) the amount which would be apportioned to such State under the following formula:

''One-half in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States as shown by the latest available Federal census and one-half in the ratio which the population in urban areas in each State bears to the total population in urban areas in all the States as shown by the latest Federal census.

''(b) The Secretary of Transportation shall, for each of the fiscal years 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, and 1991, determine the total of the amounts determined for each State under subsection (a) and shall determine the ratio which the total amount authorized for such fiscal year for the Federal-aid primary system bears to the total of such amounts determined under subsection (a) for such fiscal year.

''(c) The amount which shall be apportioned to each State for the Federal-aid primary system (including extensions in urban areas and priority primary routes) for each of the fiscal years 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, and 1991 shall be the amount determined for such State under subsection (a), multiplied by the ratio determined under subsection (b).

''(d) Notwithstanding any other provision of law, no State shall receive an apportionment under this section for any fiscal year which is less than the lower of (1) the amount which the State would be apportioned for such fiscal year under section 104(b)(1) of title 23, United States Code, and (2) the amount which would be determined under the formula set forth in subsection (a). Notwithstanding any other provision of law, no State shall receive for any such fiscal year less than one-half of 1 per centum of the total apportionment under this section for such fiscal year. For purposes of this paragraph and subsection (b) of section 103 of title 23, United States Code, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be considered together as one State. The State consisting of the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Mariana Islands shall not receive less than one-half of 1 per centum of each year's apportionment. There are authorized to be appropriated such sums as may be necessary out of the Highway Trust Fund to carry out this subsection. Funds authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code.

''(e) Amounts apportioned under this section shall be deemed to be amounts apportioned under section 104(b)(1) of title 23, United States Code, for purposes of such title and all other provisions of law. Terms used in this section shall have the same meaning such terms have in chapter 1 of title 23, United States Code.''

MATCHING FUND WAIVER FOR PERIOD JANUARY 6, 1983, THROUGH SEPTEMBER 30, 1984

Pub. L. 97–424, title I, § 145, Jan. 6, 1983, 96 Stat. 2130, provided that:

''(a) Notwithstanding any other provision of law, the Federal share of any qualifying project approved by the Secretary of Transportation under section 106(a) [section 106(a) of this title], and of any qualifying project for which the United States becomes obligated to pay under section 117, of title 23, United States Code, during the period beginning on the date of enactment of this Act [Jan. 6, 1983] and ending September 30, 1984, shall be such percentage of the construction cost as the State highway department requests, up to and including 100 per centum.

''(b) For purposes of this section, the term 'qualifying project' means a project approved by the Secretary of Transportation under section 106(a) of title 23, United States Code, or a project for which the United States becomes obligated to pay under section 117 of title 23, United States Code, for which the Governor of the State submitting the project has certified, in accordance with regulations established by the Secretary of Transportation, that sufficient funds are not available to pay the cost of the non-Federal share of the project.

''(c) The total amount which may be obligated for qualifying projects in any State under subsection (a) shall not be greater than the excess of—

''(1) the sum of the amount of obligation authority distributed to such State for fiscal year 1983 under section 104(b) of this Act [set out above], plus the amount, if any, available to such State under section 150 of this Act [enacting section 157 of this title], pertaining to minimum allocation, over

''(2) the amount of obligation authority distributed to such State for fiscal year 1982 under section 3(b) of the Federal-Aid Highway Act of 1981 [set out below].

''(d) The total amount of such increases in the Federal share as are made pursuant to subsection (a) for any State shall be repaid to the United States by such State on or before September 30, 1984. Such payments shall be deposited in the Highway Trust Fund and such repaid amounts shall be credited to the appropriate apportionment accounts of such State.

''(e) If a State has not made the repayment as required by subsection (d) of this section, the Secretary shall deduct from funds apportioned to such State under section 104(b) of title 23, United States Code, except for paragraph (5)(A), in each of the fiscal years ending September 30, 1985, and September 30, 1986, a pro rata share of each category of such apportioned funds, the total amount of which shall be equal to 50 per centum of the amount needed for repayment. Any amount deducted under this subsection shall be reapportioned for the fiscal years 1985 and 1986 in accordance with section 104(b)(1) of title 23, United States Code, to those States which have not received a higher Federal share

under this section and to those States which have made the repayment required by subsection (d).''

FEDERAL-AID HIGHWAYS AND HIGHWAY SAFETY CONSTRUCTION PROGRAMS; MAXIMUM LIMITS ON TOTAL OBLIGATIONS; EXCEPTIONS; STATE ALLOCATIONS

Pub. L. 109–59, title I, §1102, Aug. 10, 2005, 119 Stat. 1157, as amended by Pub. L. 110–244, title I, §101(b), June 6, 2008, 122 Stat. 1573, provided that:

''(a) GENERAL LIMITATION.—Subject to subsections (g) and (h), and notwithstanding any other provision of law, the obligations for Federal-aid highway and highway safety construction programs shall not exceed—

''(1) $34,422,400,000 for fiscal year 2005;

''(2) $36,032,343,903 for fiscal year 2006;

''(3) $38,244,210,516 for fiscal year 2007;

''(4) $39,585,075,404 for fiscal year 2008; and

''(5) $41,199,970,178 for fiscal year 2009.

''(b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations under or for—

''(1) section 125 of title 23, United States Code;

''(2) section 147 of the Surface Transportation Assistance Act of 1978 [Pub. L. 95–599] (formerly 23 U.S.C. 144 note; 92 Stat. 2714);

''(3) section 9 of the Federal-Aid Highway Act of 1981 (Public Law 97–134; 95 Stat. 1701);

''(4) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 (Public Law 97–424; 96 Stat. 2119);

''(5) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17; 101 Stat. 198);

''(6) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2027) [see Tables for classification];

''(7) section 157 of title 23, United States Code (as in effect on June 8, 1998);

''(8) section 105 of title 23, United States Code (as in effect for fiscal years 1998 through 2004, but only in an amount equal to $639,000,000 for each of those fiscal years);

''(9) Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 107) [see Tables for classification] or subsequent public laws for multiple years or to remain available until used, but only to the extent that the obligation authority has not lapsed or been used;

''(10) section 105 of title 23, United States Code (but, for each of fiscal years 2005 through 2009, only in an amount equal to $639,000,000 per fiscal year); and

''(11) section 1603 of this Act [set out as a note under section 118 of this title], to the extent that funds obligated in accordance with that section were not subject to a limitation on obligations at the time at which the funds were initially made available for obligation.

''(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 2005 through 2009, the Secretary [of Transportation]—

''(1) shall not distribute obligation authority provided by subsection (a) for the fiscal year for—

''(A) amounts authorized for administrative expenses and programs by section 104(a) of title 23, United States Code;

''(B) programs funded from the administrative takedown authorized by section 104(a)(1) of title 23, United States Code (as in effect on the date before the date of enactment of this Act [Aug. 10, 2005]); and

''(C) amounts authorized for the highway use tax evasion program and the Bureau of Transportation Statistics;

''(2) shall not distribute an amount of obligation authority provided by subsection (a) that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety programs for previous fiscal years the funds for which are allocated by the Secretary;

''(3) shall determine the ratio that—

''(A) the obligation authority provided by subsection (a) for the fiscal year, less the aggregate of amounts not distributed under paragraphs (1) and (2); bears to

''(B) the total of the sums authorized to be appropriated for the Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for provisions of law described in paragraphs (1) through (9) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(10) for the fiscal year), less the aggregate of the amounts not distributed under paragraphs (1) and (2);

''(4)(A) shall distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2), for sections 1301, 1302, and 1934 of this Act [see Tables for classification], sections 117 [(]but individually for each of [sic] project numbered 1 through 3676 listed in the table contained in section 1702 of this Act [119 Stat. 1256][)] and 144(g) [now 144(f)] of title 23, United States Code, and section 14501 of title 40, United States Code, and, during fiscal year 2005, amounts for programs, projects, and activities authorized by section 117 of title I of division H of the Consolidated Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 3212), so that the amount of obligation authority available for each of such sections is equal to the amount determined by multiplying—

''(i) the ratio determined under paragraph (3); by

''(ii) the sums authorized to be appropriated for that section for the fiscal year; and

''(B) shall distribute $2,000,000,000 for section 105 of title 23, United States Code;

''(5) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2), for each of the programs that are allocated by the Secretary under this Act [see Tables for classification] and title 23, United States Code (other than to programs to which paragraph (1) applies), by multiplying—

''(A) the ratio determined under paragraph (3); by

''(B) the amounts authorized to be appropriated for each such program for the fiscal year; and

''(6) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2) and the amounts distributed under paragraphs (4) and (5), for Federal-aid highway and highway safety construction programs (other than the amounts apportioned for the equity bonus program, but only to the extent that the amounts apportioned for the equity bonus program for the fiscal year are greater than $2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under this Act and title 23, United States Code, in the ratio that—

''(A) amounts authorized to be appropriated for the programs that are apportioned to each State for the fiscal year; bear to

''(B) the total of the amounts authorized to be appropriated for the programs that are apportioned to all States for the fiscal year.

''(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (c), the Secretary [of Transportation] shall, after August 1 of each of fiscal years 2005 through 2009—

''(1) revise a distribution of the obligation authority made available under subsection (c) if an amount distributed cannot be obligated during that fiscal year; and

''(2) redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year, giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code.

''(e) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), obligation limitations imposed by subsection (a) shall apply to contract authority for transportation research programs carried out under—

''(A) chapter 5 of title 23, United States Code; and

''(B) title V (research title) of this Act [see Tables for classification].

''(2) EXCEPTION.—Obligation authority made available under paragraph (1) shall—

''(A) remain available for a period of 3 fiscal years; and

''(B) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

''(f) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—

''(1) IN GENERAL.—Not later than 30 days after the date of distribution of obligation authority under subsection (c) for each of fiscal years 2005 through 2009, the Secretary [of Transportation] shall distribute to the States any funds that—

''(A) are authorized to be appropriated for the fiscal year for Federal-aid highway programs; and

''(B) the Secretary determines will not be allocated to the States, and will not be available for obligation, in the fiscal year due to the imposition of any obligation limitation for the fiscal year.

''(2) RATIO.—Funds shall be distributed under paragraph (1) in the same ratio as the distribution of obligation authority under subsection (c)(6).

''(3) AVAILABILITY.—Funds distributed under paragraph (1) shall be available for any purpose described in section 133(b) of title 23, United States Code.

''(g) SPECIAL LIMITATION CHARACTERISTICS.—Obligation authority distributed for a fiscal year under subsection (c)(4) for the provision specified in subsection (c)(4) shall—

''(1) remain available until used for obligation of funds for that provision; and

''(2) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

''(h) ADJUSTMENT IN OBLIGATION LIMIT.—

''(1) IN GENERAL.—Subject to the last sentence of section 110(a)(2) of title 23, United States Code, a limitation on obligations imposed by subsection (a) for a fiscal year shall be adjusted by an amount equal to the amount determined in accordance with section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(B)) for the fiscal year.

''(2) DISTRIBUTION.—An adjustment under paragraph (1) shall be distributed in accordance with this section.

''(i) SPECIAL RULE FOR FISCAL YEAR 2005.—

''(1) IN GENERAL.—Obligation authority distributed under subsection (c)(4) for fiscal year 2005 for sections 1301, 1302, and 1934 of this Act [see Tables for classification] and sections 117 and 144(g) [now 144(f)] of title 23, United States Code, may be used in fiscal year 2005 for purposes of obligation authority distributed under subsection (c)(6).

''(2) RESTORATION.—Obligation authority used as described in paragraph (1) shall be restored to the original purpose on the date on which obligation authority is distributed under this section for fiscal year 2006.

''(j) HIGH PRIORITY PROJECT FLEXIBILITY.—

''(1) IN GENERAL.—Subject to paragraph (2), obligation authority distributed for a fiscal year under subsection (c)(4) for each project numbered 1 through 3676 listed in the table contained in section 1702 of this Act [119 Stat. 1256] may be obligated for any other project in such section in the same State.

''(2) RESTORATION.—Obligation authority used as described in paragraph (1) shall be restored to the original purpose on the date on which obligation authority is distributed under this section for the next fiscal year following obligation under paragraph (1).

''(k) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to limit the distribution of obligation authority under subsection (c)(4)(A) for each of the individual projects numbered greater than 3676 listed in the table contained in section 1702 of this Act [119 Stat. 1256].''

Similar provisions for prior fiscal years were contained in the following acts:

Pub. L. 105–178, title I, § 1102, June 9, 1998, 112 Stat. 115, as amended by Pub. L. 105–206, title IX, § 9002(b), July 22, 1998, 112 Stat. 834; Pub. L. 106–159, title I, § 103(b)(2), Dec. 9, 1999, 113 Stat. 1753.

Pub. L. 111–117, div. A, title I, Dec. 16, 2009, 123 Stat. 3044, provided in part that: ''None of the funds in this Act [div. A of Pub. L. 111–117, see Tables for classification] shall be available for the implementation or execution of programs, the obligations for which are in excess of $41,107,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 2010''.

Pub. L. 111–117, div. A, title I, § 120, Dec. 16, 2009, 123 Stat. 3045, provided that:

''(a) For fiscal year 2010, the Secretary of Transportation shall—

''(1) not distribute from the obligation limitation for Federal-aid highways amounts authorized for administrative expenses and programs by section 104(a) of title 23, United States Code; programs funded from the administrative takedown authorized by section 104(a)(1) of title 23, United States Code (as in effect on the date before the date of enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users [Aug. 10, 2005]); the highway use tax evasion program; and the Bureau of Transportation Statistics;

''(2) not distribute an amount from the obligation limitation for Federal-aid highways that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highways and highway safety programs for previous fiscal years the funds for which are allocated by the Secretary;

''(3) determine the ratio that—

''(A) the obligation limitation for Federal-aid highways, less the aggregate of amounts not distributed under paragraphs (1) and (2), bears to

''(B) the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction programs (other than sums authorized to be appropriated for provisions of law described in paragraphs (1) through (9) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(10) for such fiscal year), less the aggregate of the amounts not distributed under paragraphs (1) and (2) of this subsection;

''(4)(A) distribute the obligation limitation for Federal-aid highways, less the aggregate amounts not distributed under paragraphs (1) and (2), for sections 1301 [set out as a note under section 101 of this title], 1302 [set out as a note under section 101 of this title], and 1934 [119 Stat. 1485] of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users [Pub. L. 109–59]; sections [sic] 117 (but individually for each project numbered 1 through 3676 listed in the table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users [119 Stat. 1256]) and section 144(g) [now 144(f)] of title 23, United States Code; and section 14501 of title 40, United States Code, so that the amount of obligation authority available for each of such sections is equal to the amount determined by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for that section for the fiscal year; and

''(B) distribute $2,000,000,000 for section 105 of title 23, United States Code;

''(5) distribute the obligation limitation provided for Federal-aid highways, less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraph (4), for each of the programs that are allocated by the Secretary under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users [Pub. L. 109–59, see Tables for classification] and title 23, United States Code (other than to programs to which paragraphs (1) and (4) apply), by multiplying the ratio determined under paragraph (3) by the amounts authorized to be appropriated for each such program for such fiscal year; and

''(6) distribute the obligation limitation provided for Federal-aid highways, less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraphs (4) and (5), for Federal-aid highways and highway safety construction programs (other than the amounts apportioned for the equity bonus program, but only to the extent that the amounts apportioned for the equity bonus program for the fiscal year are greater than $2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users and title 23, United States Code, in the ratio that—

''(A) amounts authorized to be appropriated for such programs that are apportioned to each State for such fiscal year, bear to

''(B) the total of the amounts authorized to be appropriated for such programs that are apportioned to all States for such fiscal year.

''(b) EXCEPTIONS FROM OBLIGATION LIMITATION.—The obligation limitation for Federal-aid highways shall not apply to obligations: (1) under section 125 of title 23, United States Code; (2) under section 147 of the Surface Transportation Assistance Act of 1978 [Pub. L. 95–599, formerly set out as a note under section 144 of this title]; (3) under section 9 of the Federal-Aid Highway Act of 1981 [Pub. L. 97–134, 95 Stat. 1701]; (4) under subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 [Pub. L. 97–424, 96 Stat. 2119, 2123]; (5) under subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 [Pub. L. 100–17, 101 Stat. 198, 200]; (6) under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 [Pub. L. 102–240, see Tables for classification]; (7) under section 157 of title 23, United States Code, as in effect on the day before the date of the enactment of the Transportation Equity Act for the 21st Century [June 9, 1998]; (8) under section 105 of title 23, United States Code, as in effect for fiscal years 1998 through 2004, but only in an amount equal to $639,000,000 for each of those fiscal years; (9) for Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century [Pub. L. 105–178, see Tables for classification] or subsequent public laws for multiple years or to remain available until used, but only to the extent that the obligation authority has not lapsed or been used; (10) under section 105 of title 23, United States Code, but only in an amount equal to $639,000,000 for each of fiscal years 2005 through 2010; and (11) under section 1603 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users [Pub. L. 109–59, set out as a note under section 118 of this title], to the extent that funds obligated in accordance with that section were not subject to a limitation on obligations at the time at which the funds were initially made available for obligation.

''(c) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (a), the Secretary shall, after August 1 of such fiscal year, revise a distribution of the obligation limitation made available under subsection (a) if the amount distributed cannot be obligated during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year, giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code.

''(d) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—The obligation limitation shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code, and title V (research title) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users [Pub. L. 109–59, see Tables for classification], except that obligation authority made available for such programs under such limitation shall remain available for a period of 3 fiscal years and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

''(e) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—

''(1) IN GENERAL.—Not later than 30 days after the date of the distribution of obligation limitation under subsection (a), the Secretary shall distribute to the States any funds that—

''(A) are authorized to be appropriated for such fiscal year for Federal-aid highways programs; and

''(B) the Secretary determines will not be allocated to the States, and will not be available for obligation, in such fiscal year due to the imposition of any obligation limitation for such fiscal year.

''(2) RATIO.—Funds shall be distributed under paragraph (1) in the same ratio as the distribution of obligation authority under subsection (a)(6).

''(3) AVAILABILITY.—Funds distributed under paragraph (1) shall be available for any purposes described in section 133(b) of title 23, United States Code.

''(f) SPECIAL LIMITATION CHARACTERISTICS.—Obligation limitation distributed for a fiscal year under subsection (a)(4) for the provision specified in subsection (a)(4) shall—

''(1) remain available until used for obligation of funds for that provision; and

''(2) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

''(g) HIGH PRIORITY PROJECT FLEXIBILITY.—

''(1) IN GENERAL.—Subject to paragraph (2), obligation authority distributed for such fiscal year under subsection (a)(4) for each project numbered 1 through 3676 listed in the table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users [119 Stat. 1256] may be obligated for any other project in such section in the same State.

''(2) RESTORATION.—Obligation authority used as described in paragraph (1) shall be restored to the original purpose on the date on which obligation authority is distributed under this section for the next fiscal year following obligation under paragraph (1).

''(h) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to limit the distribution of obligation authority under subsection (a)(4)(A) for each of the individual projects numbered greater than 3676 listed in the table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users [119 Stat. 1256].''

Similar provisions for prior fiscal years were contained in the following acts:

Pub. L. 111–8, div. I, title I, Mar. 11, 2009, 123 Stat. 923.

Pub. L. 111–8, div. I, title I, §120, Mar. 11, 2009, 123 Stat. 924.

Pub. L. 110–161, div. K, title I, Dec. 26, 2007, 121 Stat. 2383.

Pub. L. 110–161, div. K, title I, §120, Dec. 26, 2007, 121 Stat. 2385.

Pub. L. 109–115, div. A, title I, Nov. 30, 2005, 119 Stat. 2402.

Pub. L. 109–115, div. A, title I, §110, Nov. 30, 2005, 119 Stat. 2403.

Pub. L. 108–447, div. H, title I, Dec. 8, 2004, 118 Stat. 3204.

Pub. L. 108–447, div. H, title I, §110, Dec. 8, 2004, 118 Stat. 3209.
Pub. L. 108–199, div. F, title I, Jan. 23, 2004, 118 Stat. 285.
Pub. L. 108–199, div. F, title I, §110, Jan. 23, 2004, 118 Stat. 290, as amended by Pub. L. 108–202, §8(b), Feb. 29, 2004, 118 Stat. 484; Pub. L. 108–287, title X, §14003(a) Aug. 5, 2004, 118 Stat. 1013.
Pub. L. 108–7, div. I, title I, title III, §310, Feb. 20, 2003, 117 Stat. 393, 407.
Pub. L. 107–87, title I, title III, §310, Dec. 18, 2001, 115 Stat. 841, 855.
Pub. L. 106–346, §101(a) [title I, title III, §310], Oct. 23, 2000, 114 Stat. 1356, 1356A–7, 1356A–24.
Pub. L. 106–69, title I, title III, §310, Oct. 9, 1999, 113 Stat. 994, 1016.
Pub. L. 105–277, div. A, §101(g) [title I, title III, §310], Oct. 21, 1998, 112 Stat. 2681–439, 2681–446, 2681–465.
Pub. L. 105–66, title I, title III, §310, Oct. 27, 1997, 111 Stat. 1431, 1442.
Pub. L. 104–205, title I, title III, §310, Sept. 30, 1996, 110 Stat. 2958, 2969.
Pub. L. 104–50, title I, title III, §310, Nov. 15, 1995, 109 Stat. 443, 454.
Pub. L. 103–331, title I, Sept. 30, 1994, 108 Stat. 2477; Pub. L. 104–19, title I, July 27, 1995, 109 Stat. 223.
Pub. L. 103–331, title III, §310, Sept. 30, 1994, 108 Stat. 2489, as amended by Pub. L. 104–59, title III, §338(c)(3), Nov. 28, 1995, 109 Stat. 605.
Pub. L. 103–122, title I, title III, §310, Oct. 27, 1993, 107 Stat. 1206, 1220, as amended by Pub. L. 103–211, title II, Feb. 12, 1994, 108 Stat. 20.
Pub. L. 102–388, title I, title III, §310, Oct. 6, 1992, 106 Stat. 1528, 1544.
Pub. L. 102–240, title I, §1002(a)–(g), Dec. 18, 1991, 105 Stat. 1916–1918.
Pub. L. 102–143, title I, title III, §310, Oct. 28, 1991, 105 Stat. 925, 940.
Pub. L. 101–516, title I, title III, §310, Nov. 5, 1990, 104 Stat. 2163, 2179.
Pub. L. 101–164, title I, title III, §310, Nov. 21, 1989, 103 Stat. 1077, 1092.
Pub. L. 100–457, title I, title III, §310, Sept. 30, 1988, 102 Stat. 2132, 2146.
Pub. L. 100–202, §101(*l*) [title I, title III, §310], Dec. 22, 1987, 101 Stat. 1329–358, 1329–365, 1329–378.
Pub. L. 100–17, title I, §105(a)–(g), Apr. 2, 1987, 101 Stat. 142–144.
Pub. L. 99–500, §101(*l*) [H.R. 5205, title I, title III, §313(a)–(d)], Oct. 18, 1986, 100 Stat. 1783–308, and Pub. L. 99–591, §101(*l*) [H.R. 5205, title I, title III, §313(a)–(d)], Oct. 30, 1986, 100 Stat. 3341–308.
Pub. L. 99–272, title IV, §4102(a)–(e), Apr. 7, 1986, 100 Stat. 112, 113.
Pub. L. 99–190, §101(e) [title I, title III, §313], Dec. 19, 1985, 99 Stat. 1267, 1275, 1285.
Pub. L. 98–473, title I, §101(i) [title I, title III, §315], Oct. 12, 1984, 98 Stat. 1944, 1951, 1962.
Pub. L. 98–78, title I, title III, §322, Aug. 15, 1983, 97 Stat. 460, 474.
Pub. L. 98–8, title I, Mar. 24, 1983, 97 Stat. 14.
Pub. L. 97–424, title I, §104(a)–(d), Jan. 6, 1983, 96 Stat. 2098.
Pub. L. 97–134, §3, Dec. 29, 1981, 95 Stat. 1699, as amended by Pub. L. 97–216, title I, July 19, 1982, 96 Stat. 187.
Pub. L. 97–35, title XI, §1106, Aug. 13, 1981, 95 Stat. 624, as amended by Pub. L. 97–424, title I, §104(e), Jan. 6, 1983, 96 Stat. 2099.

Apportionment Factors for Expenditures on System of Interstate and Defense Highways

Provisions requiring the Secretary of Transportation to apportion for specific fiscal years sums authorized to be appropriated for such fiscal years by section 108(b) of the Federal-Aid Highway Act of 1956, set out as a note under section 101 of this title, for expenditures on the National System of Interstate and Defense Highways [now Dwight D. Eisenhower System of Interstate and Defense Highways] using the apportionment factors contained in certain tables in particular committee prints of the Committee on Public Works and Transportation of the House of Representatives were contained in the following acts:
Pub. L. 102–240, title I, §1001(b), Dec. 18, 1991, 105 Stat. 1915.
Pub. L. 100–17, title I, §102(a), Apr. 2, 1987, 101 Stat. 135.
Pub. L. 99–104, §1, Sept. 30, 1985, 99 Stat. 474.
Pub. L. 99–4, §1, Mar. 13, 1985, 99 Stat. 6.
Pub. L. 98–229, §1, Mar. 9, 1984, 98 Stat. 55.
Pub. L. 97–327, §3, Oct. 15, 1982, 96 Stat. 1611.
Pub. L. 97–134, §2, Dec. 29, 1981, 95 Stat. 1699.
Pub. L. 96–144, §1, Dec. 13, 1979, 93 Stat. 1084.
Pub. L. 95–599, title I, §103, Nov. 6, 1978, 92 Stat. 2689.
Pub. L. 94–280, title I, §103, May 5, 1976, 90 Stat. 426.
Pub. L. 93–87, title I, §103, Aug. 13, 1973, 87 Stat. 250.
Pub. L. 91–605, title I, §103, Dec. 31, 1970, 84 Stat. 1714.
Pub. L. 90–495, §3, Aug. 23, 1968, 82 Stat. 815.
Pub. L. 89–574, §3, Sept. 13, 1966, 80 Stat. 766.
Pub. L. 89–139, §2, Aug. 28, 1965, 79 Stat. 578.

Minimum Apportionment to Each State; Expenditure of Excess Amounts

Provisions entitling each State, for specific fiscal years, to receive at least one-half of 1 per centum of the total apportionment for the Interstate System under section 104(b)(5)(A) of this title, and authorizing States to expend amounts available under these provisions which are in excess of the estimated cost of completing and of necessary resurfacing, restoring, rehabilitating, and reconstruction of the State's portion of the Interstate System for the purposes for which funds apportioned under section 104(b)(1), (2), and (6) of this title may be expended or for carrying out section 152 of this title were contained in the following acts:
Pub. L. 100–17, title I, §102(c), Apr. 2, 1987, 101 Stat. 135, as amended by Pub. L. 102–240, title I, §1001(h), Dec. 18, 1991, 105 Stat. 1916.
Pub. L. 97–424, title I, §103(a), Jan. 6, 1983, 96 Stat. 2097.
Pub. L. 97–327, §4(b), Oct. 15, 1982, 96 Stat. 1612; repealed Pub. L. 97–424, title I, §103(b), Jan. 6, 1983, 96 Stat. 2098.
Pub. L. 95–599, title I, §104(b)(1), Nov. 6, 1978, 92 Stat. 2691.
Pub. L. 94–280, title I, §105(b)(1), May 5, 1976, 90 Stat. 428.
Pub. L. 93–87, title I, §104(b), Aug. 13, 1973, 87 Stat. 252.
Pub. L. 91–605, title I, §105(b), Dec. 31, 1970, 84 Stat. 1716.

Public Boat Launching Areas; Access Ramps

Section 147 of Pub. L. 94–280 provided that: ''Funds apportioned to States under subsections (b)(1), (b)(2), and (b)(6) of section 104 of title 23, United States Code, may be used upon the application of the State and the approval of the Secretary of Transportation for construction of access ramps from bridges under construction or which are being reconstructed, replaced, repaired, or otherwise altered on the Federal-aid primary, secondary, or urban system to public boat launching areas adjacent to such bridges. Approval of the Secretary shall be in accordance with guidelines developed jointly by the Secretary of Transportation and the Secretary of the Interior.''

Use of Federal Funds During Period Beginning February 12, 1975, and Ending September 30, 1975

Pub. L. 94–30, §3, June 4, 1975, 89 Stat. 171, sanctioned the use of any money apportioned under section 104(b) of this title for any Federal-aid highway system in a State for any project in that State on any Federal-aid highway system, such amount to be deducted from the apportionment made after June 4, 1975 and repaid and

credited to the last apportionment made for which the money was originally apportioned.

MINIMUM APPORTIONMENT FOR PRIMARY SYSTEM; ADDITIONAL APPROPRIATIONS FOR FISCAL YEARS ENDING JUNE 30, 1974, 1975, AND 1976

Section 111(b) of Pub. L. 93–87 provided that: ''Notwithstanding the amendments made by subsection (a) of this section [to subsecs. (b)(1), (2), (6), (c) and (d) of this section] no State (other than the District of Columbia) shall receive an apportionment for the primary system which is less than the apportionment which such State received for such system for the fiscal year ending June 30, 1973. In order to carry out this subsection, there is authorized to be appropriated out of the Highway Trust Fund for the Federal-aid primary system, an additional $17,000,000 for the fiscal year ending June 30, 1974, and $15,000,000 per fiscal year for the fiscal years ending June 30, 1975, and June 30, 1976.''

SECTION 102(a) OF THE FEDERAL-AID HIGHWAY ACT OF 1956

Act June 29, 1956, ch. 462, title I, §102(a), 70 Stat. 374, authorized, for the purpose of carrying out the provisions of the Federal-Aid Road Act approved July 11, 1916, additional appropriations of $125,000,000 for the fiscal year ending June 30, 1957, $850,000,000 for the fiscal year ending June 30, 1958, and $875,000,000 for the fiscal year ending June 30, 1959, and provided for the percentage allocation of these funds for primary, secondary and urban systems and the manner of apportionment among the States.

APPROVAL OF ESTIMATE OF COST OF COMPLETING THE INTERSTATE SYSTEM AS BASIS FOR APPORTIONMENT OF FUNDS FOR FISCAL YEARS 1963 TO 1966

Pub. L. 87–61, title I, §102, June 29, 1961, 75 Stat. 122, approved the estimate of cost of completing the Interstate System in each State, transmitted to the Congress on Jan. 11, 1961, as the basis for making the apportionment of funds authorized for the fiscal years ending June 30, 1963, 1964, 1965, and 1966.

APPROVAL OF ESTIMATE OF COST OF COMPLETING THE INTERSTATE SYSTEM AS BASIS FOR APPORTIONMENT OF FUNDS FOR FISCAL YEARS 1960–1962

Pub. L. 85–381, §8, Apr. 16, 1958, 72 Stat. 94, as amended by Pub. L. 85–899, §1, Sept. 2, 1958, 72 Stat. 1725; Pub. L. 86–342, title I, §103, Sept. 21, 1959, 73 Stat. 611, approved the estimate of cost of completing the Interstate System in each State, transmitted to the Congress on Jan. 7, 1958, as the basis for making the apportionment of funds authorized for the fiscal years ending June 30, 1960, 1961, and 1962.

APPORTIONMENTS FOR SUBSEQUENT YEARS BASED ON REVISED ESTIMATES OF COST

Act June 29, 1956, ch. 462, title I, §108(d), 70 Stat. 379, as amended by act Sept. 2, 1958, Pub. L. 85–899, §2, 72 Stat. 1725, provided that the sums authorized for the fiscal years 1960 through 1969 be apportioned among the several States in the ratio which the estimated cost of completing the Interstate System had to the sum of the estimated cost of completing the Interstate System in all of the States, and required the Secretary of Commerce, in cooperation with State highway departments, to make detailed revised estimates of the cost of completion of the system and to supply Congress with such revised estimate.

§105. Equity bonus program

(a) PROGRAM.—

(1) IN GENERAL.—Subject to subsections (c) and (d), for each of fiscal years 2005 through 2009, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of the total apportionments for the fiscal year for the programs specified in paragraph (2) that is less than the percentage calculated under subsection (b).

(2) SPECIFIC PROGRAMS.—The programs referred to in subsection (a) are—

(A) the Interstate maintenance program under section 119;

(B) the national highway system program under section 103;

(C) the highway bridge program under section 144;

(D) the surface transportation program under section 133;

(E) the highway safety improvement program under section 148;

(F) the congestion mitigation and air quality improvement program under section 149;

(G) metropolitan planning programs under section 104(f);

(H) the high priority projects program under section 117;

(I) the equity bonus program under this section;

(J) the Appalachian development highway system program under subtitle IV of title 40;

(K) the recreational trails program under section 206;

(L) the safe routes to school program under section 1404 of the SAFETEA–LU;

(M) the rail-highway grade crossing program under section 130; and

(N) the coordinated border infrastructure program under section 1303 of the SAFETEA–LU.

(b) STATE PERCENTAGE.—

(1) IN GENERAL.—The percentage referred to in subsection (a) for each State shall be—

(A) for each of fiscal years 2005 and 2006, 90.5 percent, for fiscal year 2007, 91.5 percent, and for each of fiscal years 2008 and 2009, 92 percent, of the quotient obtained by dividing—

(i) the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available; by

(ii) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year; or

(B) for a State with a total population density of less than 40 persons per square mile (as reported in the decennial census conducted by the Federal Government in 2000) and of which at least 1.25 percent of the total acreage is under Federal jurisdiction, based on the report of the General Services Administration entitled ''Federal Real Property Profile'' and dated September 30, 2004, a State with a total population of less than 1,000,000 (as reported in that decennial census), a State with a median household income of less than $35,000 (as reported in that decennial census), a State with a fatality rate during 2002 on Interstate highways that is greater than one fatality for each 100,000,000 vehicle miles traveled on Inter-

state highways, or a State with an indexed, State motor fuels excise tax rate higher than 150 percent of the Federal motor fuels excise tax rate as of the date of enactment of the SAFETEA–LU, the greater of—

(i) the applicable percentage under subparagraph (A); or

(ii) the average percentage of the State's share of total apportionments for the period of fiscal years 1998 through 2003 for the programs specified in paragraph (2).

(2) SPECIFIC PROGRAMS.—The programs referred to in paragraph (1)(B)(ii) are (as in effect on the day before the date of enactment of the SAFETEA–LU)—

(A) the Interstate maintenance program under section 119;

(B) the national highway system program under section 103;

(C) the highway bridge program under section 144;

(D) the surface transportation program under section 133;

(E) the recreational trails program under section 206;

(F) the high priority projects program under section 117;

(G) the minimum guarantee provided under this section;

(H) revenue aligned budget authority amounts provided under section 110;

(I) the congestion mitigation and air quality improvement program under section 149;

(J) the Appalachian development highway system program under subtitle IV of title 40; and

(K) metropolitan planning programs under section 104(f).

(c) SPECIAL RULES.—

(1) MINIMUM COMBINED ALLOCATION.—For each fiscal year, before making the allocations under subsection (a)(1), the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a combined total of amounts allocated under subsection (a)(1), apportionments for the programs specified in subsection (a)(2), and amounts allocated under this subsection, that is less than the following percentages of the average for fiscal years 1998 through 2003 of the annual apportionments for the State for all programs specified in subsection (b)(2):

(A) For fiscal year 2005, 117 percent.

(B) For fiscal year 2006, 118 percent.

(C) For fiscal year 2007, 119 percent.

(D) For fiscal year 2008, 120 percent.

(E) For fiscal year 2009, 121 percent.

(2) NO NEGATIVE ADJUSTMENT.—No negative adjustment shall be made under subsection (a)(1) to the apportionment of any State.

(d) TREATMENT OF FUNDS.—

(1) PROGRAMMATIC DISTRIBUTION.—The Secretary shall apportion the amounts made available under this section that exceed $2,639,000,000 so that the amount apportioned to each State under this paragraph for each program referred to in subparagraphs (A) through (F) of subsection (a)(2) is equal to the amount determined by multiplying the amount to be apportioned under this paragraph by the ratio that—

(A) the amount of funds apportioned to each State for each program referred to in subparagraphs (A) through (F) of subsection (a)(2) for a fiscal year; bears to

(B) the total amount of funds apportioned to such State for all such programs for such fiscal year.

(2) REMAINING DISTRIBUTION.—The Secretary shall administer the remainder of funds made available under this section to the States in accordance with section 104(b)(3), except that paragraphs (1) through (3) of section 133(d) shall not apply to amounts administered pursuant to this paragraph.

(e) METRO PLANNING SET ASIDE.—Notwithstanding section 104(f), no set aside provided for under that section shall apply to funds allocated under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this section for each of fiscal years 2005 through 2009.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 891; Pub. L. 86–624, § 17(b), July 12, 1960, 74 Stat. 415; Pub. L. 89–564, title II, § 206, Sept. 9, 1966, 80 Stat. 736; Pub. L. 91–605, title I, §§ 106(d), 132, Dec. 31, 1970, 84 Stat. 1717, 1732; Pub. L. 93–87, title I, § 109(b), Aug. 13, 1973, 87 Stat. 255; Pub. L. 95–599, title I, §§ 111, 112, Nov. 6, 1978, 92 Stat. 2696; Pub. L. 97–424, title I, § 109(a), Jan. 6, 1983, 96 Stat. 2104; Pub. L. 102–240, title I, § 1105(g)(7), Dec. 18, 1991, 105 Stat. 2036; Pub. L. 105–178, title I, § 1104(a), (c), June 9, 1998, 112 Stat. 127; Pub. L. 105–206, title IX, § 9002(d), July 22, 1998, 112 Stat. 835; Pub. L. 109–59, title I, § 1104(a), Aug. 10, 2005, 119 Stat. 1163; Pub. L. 110–244, title I, § 101(m)(3)(B), June 6, 2008, 122 Stat. 1576.)

REFERENCES IN TEXT

Section 1404 of the SAFETEA–LU, referred to in subsec. (a)(2)(L), is section 1404 of Pub. L. 109–59, which is set out as a note under section 402 of this title.

Section 1303 of the SAFETEA–LU, referred to in subsec. (a)(2)(N), is section 1303 of Pub. L. 109–59, which is set out as a note under section 101 of this title.

The date of enactment of the SAFETEA–LU, referred to in subsec. (b)(1)(B), (2), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

AMENDMENTS

2008—Subsecs. (a)(2)(C), (b)(2)(C). Pub. L. 110–244 struck out ''replacement and rehabilitation'' after ''highway bridge''.

2005—Pub. L. 109–59 amended section catchline and text generally, substituting provisions relating to equity bonus program for allocating amounts among the States for each of fiscal years 2005 through 2009 for provisions relating to minimum guarantee to each State of funds apportioned under this chapter for each of fiscal years 1998 through 2003.

1998—Pub. L. 105–178 amended section catchline and text generally, substituting provisions relating to minimum guarantee to each State of funds apportioned under chapter for provisions relating to programs to be submitted by State highway departments for approval by Secretary for utilization of funds apportioned under chapter.

Subsec. (a). Pub. L. 105–178, § 1104(c)(1), as added by Pub. L. 105–206, § 9002(d), inserted at end ''The minimum

amount allocated to a State under this section for a fiscal year shall be $1,000,000.''

Subsec. (c)(1). Pub. L. 105–178, § 1104(c)(2), as added by Pub. L. 105–206, § 9002(d), struck out ''50 percent of'' after ''shall apportion'' in introductory provisions.

Subsec. (c)(1)(A). Pub. L. 105–178, § 1104(c)(3), as added by Pub. L. 105–206, § 9002(d), inserted ''(other than metropolitan planning, minimum guarantee, high priority projects, Appalachian development highway system, and recreational trails programs)'' after ''subsection (a)''.

Subsec. (c)(1)(B). Pub. L. 105–178, § 1104(c)(4), as added by Pub. L. 105–206, § 9002(d), substituted ''each State'' for ''all States''.

Subsec. (c)(2). Pub. L. 105–178, § 1104(c)(5), as added by Pub. L. 105–206, § 9002(d), substituted ''administer'' for ''apportion'' and ''administered'' for ''apportioned''.

Subsec. (f)(1). Pub. L. 105–178, § 1104(c)(6)(A), as added by Pub. L. 105–206, § 9002(d), inserted ''percentage'' before ''return''.

Subsec. (f)(2). Pub. L. 105–178, § 1104(c)(6)(A), (B), as added by Pub. L. 105–206, § 9002(d), inserted ''percentage'' before ''return'' and substituted ''in the table in subsection (b) was equal to'' for ''for the preceding fiscal year was equal to or less than''.

Subsec. (f)(3). Pub. L. 105–178, § 1104(c)(6)(C), as added by Pub. L. 105–206, § 9002(d), inserted ''proportionately'' before ''adjust'', struck out ''set forth'' before ''in subsection (b)'', and substituted ''is equal to'' for ''do not exceed''.

Subsec. (f)(4). Pub. L. 105–178, § 1104(c)(6)(A), as added by Pub. L. 105–206, § 9002(d), inserted ''percentage'' before ''return''.

1991—Subsec. (k). Pub. L. 102–240 added subsec. (k).

1983—Subsec. (h). Pub. L. 97–424 added subsec. (h).

1978—Subsec. (b). Pub. L. 95–599, § 111, inserted provision relating to selection of program projects after consultation with local officials in situations where public roads and highways are under control and supervision of State highway departments.

Subsec. (g). Pub. L. 95–599, § 112, substituted ''public airports, public ports for water transportation, new town communities, and new town-intown communities,'' for ''public airports and public ports for water transportation,''.

1973—Subsec. (d). Pub. L. 93–87 substituted ''projects be selected by the appropriate local officials with the concurrence of the State highway department of each State and, in urbanized areas, also in accordance with the planning process required pursuant to section 134 of this title'', for ''projects be selected by the appropriate local officials and the State highway department in cooperation with each other''.

1970—Subsecs. (d) to (f). Pub. L. 91–605, § 106(d), added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

Subsec. (g). Pub. L. 91–605, § 132, added subsec. (g).

1966—Subsec. (e). Pub. L. 89–564 added subsec. (e).

1960—Subsec. (e). Pub. L. 86–624 repealed subsec. (e) which required the Secretary, in approving programs in Hawaii, to give preference to such projects as will expedite the completion of highways for the national defense or which will connect seaports with units of the national parks.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

ACCELERATION OF PROJECTS

Section 129 of Pub. L. 97–424 provided that: ''The Secretary of Transportation shall by rule or regulation establish, as soon as practicable, alternative methods for processing projects under title 23, United States Code, so as to reduce the time required from the request for project approval through the completion of construction. In carrying out this section the Secretary shall utilize the knowledge and experience resulting from the demonstration project authorized by and carried out under section 141 of the Federal-Aid Highway Act of 1976 [Pub. L. 94–280, title I, § 141, May 5, 1976, 90 Stat. 444, set out as a note under section 124 of this title].''

§ 106. Project approval and oversight

(a) IN GENERAL.—

(1) SUBMISSION OF PLANS, SPECIFICATIONS, AND ESTIMATES.—Except as otherwise provided in this section, each State transportation department shall submit to the Secretary for approval such plans, specifications, and estimates for each proposed project as the Secretary may require.

(2) PROJECT AGREEMENT.—The Secretary shall act on the plans, specifications, and estimates as soon as practicable after the date of their submission and shall enter into a formal project agreement with the State transportation department formalizing the conditions of the project approval.

(3) CONTRACTUAL OBLIGATION.—The execution of the project agreement shall be deemed a contractual obligation of the Federal Government for the payment of the Federal share of the cost of the project.

(4) GUIDANCE.—In taking action under this subsection, the Secretary shall be guided by section 109.

(b) PROJECT AGREEMENT.—

(1) PROVISION OF STATE FUNDS.—The project agreement shall make provision for State funds required to pay the State's non-Federal share of the cost of construction of the project and to pay for maintenance of the project after completion of construction.

(2) REPRESENTATIONS OF STATE.—If a part of the project is to be constructed at the expense of, or in cooperation with, political subdivisions of the State, the Secretary may rely on representations made by the State transportation department with respect to the arrangements or agreements made by the State transportation department and appropriate local officials for ensuring that the non-Federal contribution will be provided under paragraph (1).

(c) ASSUMPTION BY STATES OF RESPONSIBILITIES OF THE SECRETARY.—

(1) NON-INTERSTATE NHS PROJECTS.—For projects under this title that are on the National Highway System but not on the Interstate System, the State may assume the responsibilities of the Secretary under this title for design, plans, specifications, estimates, contract awards, and inspections of projects unless the State or the Secretary determines that such assumption is not appropriate.

(2) NON-NHS PROJECTS.—For projects under this title that are not on the National Highway System, the State shall assume the responsibilities of the Secretary under this title for design, plans, specifications, estimates, contract awards, and inspection of projects, unless the State determines that such assumption is not appropriate.

(3) AGREEMENT.—The Secretary and the State shall enter into an agreement relating to the extent to which the State assumes the responsibilities of the Secretary under this subsection.

(4) LIMITATION ON AUTHORITY OF SECRETARY.—The Secretary may not assume any greater responsibility than the Secretary is permitted under this title on September 30, 1997, except upon agreement by the Secretary and the State.

(d) RESPONSIBILITIES OF THE SECRETARY.—Nothing in this section, section 133, or section 149 shall affect or discharge any responsibility or obligation of the Secretary under—

(1) section 113 or 114; or

(2) any Federal law other than this title (including section 5333 of title 49).

(e) VALUE ENGINEERING ANALYSIS.—

(1) DEFINITION OF VALUE ENGINEERING ANALYSIS.—

(A) IN GENERAL.—In this subsection, the term ''value engineering analysis'' means a systematic process of review and analysis of a project, during the concept and design phases, by a multidisciplined team of persons not involved in the project, that is conducted to provide recommendations such as those described in subparagraph (B) for—

(i) providing the needed functions safely, reliably, and at the lowest overall cost;

(ii) improving the value and quality of the project; and

(iii) reducing the time to complete the project.

(B) INCLUSIONS.—The recommendations referred to in subparagraph (A) include, with respect to a project—

(i) combining or eliminating otherwise inefficient use of costly parts of the original proposed design for the project; and

(ii) completely redesigning the project using different technologies, materials, or methods so as to accomplish the original purpose of the project.

(2) ANALYSIS.—The State shall provide a value engineering analysis or other cost-reduction analysis for—

(A) each project on the Federal-aid system with an estimated total cost of $25,000,000 or more;

(B) a bridge project with an estimated total cost of $20,000,000 or more; and

(C) any other project the Secretary determines to be appropriate.

(3) MAJOR PROJECTS.—The Secretary may require more than 1 analysis described in paragraph (2) for a major project described in subsection (h).

(4) REQUIREMENTS.—Analyses described in paragraph (1) for a bridge project shall—

(A) include bridge substructure requirements based on construction material; and

(B) be evaluated—

(i) on engineering and economic bases, taking into consideration acceptable designs for bridges; and

(ii) using an analysis of life-cycle costs and duration of project construction.

(f) LIFE-CYCLE COST ANALYSIS.—

(1) USE OF LIFE-CYCLE COST ANALYSIS.—The Secretary shall develop recommendations for the States to conduct life-cycle cost analyses. The recommendations shall be based on the principles contained in section 2 of Executive Order No. 12893 and shall be developed in consultation with the American Association of State Highway and Transportation Officials. The Secretary shall not require a State to conduct a life-cycle cost analysis for any project as a result of the recommendations required under this subsection.

(2) LIFE-CYCLE COST ANALYSIS DEFINED.—In this subsection, the term ''life-cycle cost analysis'' means a process for evaluating the total economic worth of a usable project segment by analyzing initial costs and discounted future costs, such as maintenance, user costs, reconstruction, rehabilitation, restoring, and resurfacing costs, over the life of the project segment.

(g) OVERSIGHT PROGRAM.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary shall establish an oversight program to monitor the effective and efficient use of funds authorized to carry out this title.

(B) MINIMUM REQUIREMENT.—At a minimum, the program shall be responsive to all areas relating to financial integrity and project delivery.

(2) FINANCIAL INTEGRITY.—

(A) FINANCIAL MANAGEMENT SYSTEMS.—The Secretary shall perform annual reviews that address elements of the State transportation departments' financial management systems that affect projects approved under subsection (a).

(B) PROJECT COSTS.—The Secretary shall develop minimum standards for estimating project costs and shall periodically evaluate the practices of States for estimating project costs, awarding contracts, and reducing project costs.

(3) PROJECT DELIVERY.—The Secretary shall perform annual reviews that address elements of the project delivery system of a State, which elements include one or more activities that are involved in the life cycle of a project from conception to completion of the project.

(4) RESPONSIBILITY OF THE STATES.—

(A) IN GENERAL.—The States shall be responsible for determining that subrecipients of Federal funds under this title have—

(i) adequate project delivery systems for projects approved under this section; and

(ii) sufficient accounting controls to properly manage such Federal funds.

(B) PERIODIC REVIEW.—The Secretary shall periodically review the monitoring of subrecipients by the States.

(5) SPECIFIC OVERSIGHT RESPONSIBILITIES.—

(A) EFFECT OF SECTION.—Nothing in this section shall affect or discharge any oversight responsibility of the Secretary specifically provided for under this title or other Federal law.

(B) APPALACHIAN DEVELOPMENT HIGHWAYS.—The Secretary shall retain full oversight responsibilities for the design and construction of all Appalachian development highways under section 14501 of title 40.

(h) MAJOR PROJECTS.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, a recipient of Federal financial assistance for a project under this title with an estimated total cost of $500,000,000 or more, and recipients for such other projects as may be identified by the Secretary, shall submit to the Secretary for each project—

(A) a project management plan; and

(B) an annual financial plan.

(2) PROJECT MANAGEMENT PLAN.—A project management plan shall document—

(A) the procedures and processes that are in effect to provide timely information to the project decisionmakers to effectively manage the scope, costs, schedules, and quality of, and the Federal requirements applicable to, the project; and

(B) the role of the agency leadership and management team in the delivery of the project.

(3) FINANCIAL PLAN.—A financial plan shall—

(A) be based on detailed estimates of the cost to complete the project; and

(B) provide for the annual submission of updates to the Secretary that are based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.

(i) OTHER PROJECTS.—A recipient of Federal financial assistance for a project under this title with an estimated total cost of $100,000,000 or more that is not covered by subsection (h) shall prepare an annual financial plan. Annual financial plans prepared under this subsection shall be made available to the Secretary for review upon the request of the Secretary.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 892; Pub. L. 88–157, §7(a), Oct. 24, 1963, 77 Stat. 278; Pub. L. 91–605, title I, §§106(e), 142, Dec. 31, 1970, 84 Stat. 1717, 1737; Pub. L. 94–280, title I, §114, May 5, 1976, 90 Stat. 436; Pub. L. 100–17, title I, §133(b)(4), Apr. 2, 1987, 101 Stat. 171; Pub. L. 102–240, title I, §§1016(b), 1018(a), Dec. 18, 1991, 105 Stat. 1945, 1948; Pub. L. 104–59, title III, §303, Nov. 28, 1995, 109 Stat. 578; Pub. L. 105–178, title I, §1305(a)–(c), June 9, 1998, 112 Stat. 227–229; Pub. L. 109–59, title I, §1904(a), Aug. 10, 2005, 119 Stat. 1465.)

REFERENCES IN TEXT

Executive Order No. 12893, referred to in subsec. (f)(1), is set out as a note under section 501 of Title 31, Money and Finance.

AMENDMENTS

2005—Subsec. (e). Pub. L. 109–59, §1904(a)(1), added subsec. (e) and struck out heading and text of former subsec. (e). Text read as follows: ''For such projects as the Secretary determines advisable, plans, specifications, and estimates for proposed projects on any Federal-aid highway shall be accompanied by a value engineering analysis or other cost reduction analysis.''

Subsecs. (g) to (i). Pub. L. 109–59, §1904(a)(2), added subsecs. (g) to (i) and struck out former subsecs. (g) and (h) which related to establishment of a value engineering analysis program for projects with an estimated total cost of $25,000,000 or more and requirement that recipient of assistance for a project with an estimated total cost of $1,000,000,000 or more submit an annual financial plan for the project.

1998—Pub. L. 105–178, §1305(a)(1), substituted ''Project approval and oversight'' for ''Plans, specifications, and estimates'' in section catchline.

Subsecs. (a) to (d). Pub. L. 105–178, §1305(a)(3), added subsecs. (a) to (d) and struck out former subsecs. (a) to (d) which related to requirement for State highway departments to submit to Secretary for approval plans, specifications, and estimates for each proposed highway project, special rules relating to resurfacing, restoring, and rehabilitating projects on National Highway System, to low-cost National Highway System projects, and to non-National Highway System projects, limitation on estimates for construction engineering, and provisions relating to value engineering or other cost reduction analysis.

Subsec. (e). Pub. L. 105–178, §1305(a)(3), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 105–178, §1305(c), added subsec. (f) and struck out former subsec. (f) which read as follows: ''(f) LIFE-CYCLE COST ANALYSIS.—

''(1) ESTABLISHMENT.—The Secretary shall establish a program to require States to conduct an analysis of the life-cycle costs of each usable project segment on the National Highway System with a cost of $25,000,000 or more.

''(2) ANALYSIS OF THE LIFE-CYCLE COSTS DEFINED.—In this subsection, the term 'analysis of the life-cycle costs' means a process for evaluating the total economic worth of a usable project segment by analyzing initial costs and discounted future costs, such as maintenance, reconstruction, rehabilitation, restoring, and resurfacing costs, over the life of the project segment.''

Pub. L. 105–178, §1305(a)(2), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 105–178, §1305(a)(2), redesignated subsec. (f) as (g).

Subsec. (h). Pub. L. 105–178, §1305(b), added subsec. (h).

1995—Subsecs. (e), (f). Pub. L. 104–59 added subsecs. (e) and (f).

1991—Subsec. (a). Pub. L. 102–240, §1016(b)(1), inserted ''this section and'' before ''section 117''.

Subsec. (b). Pub. L. 102–240, §1016(b)(2), added subsec. (b) and struck out former subsec. (b) which read as follows: ''In addition to the approval required under subsection (a) of this section, proposed specifications for projects for construction on (1) the Federal-aid secondary system, except in States where all public roads and highways are under the control and supervision of the State highway department, and (2) the Federal-aid urban system, shall be determined by the State highway department and the appropriate local road officials in cooperation with each other.''

Subsec. (c). Pub. L. 102–240, §1018(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''Items included in any such estimate for construction engineering shall not exceed 15 percent of the total estimated cost of a project financed with Federal-aid highway funds, after excluding from such total estimate cost, the estimated costs of rights-of-way, preliminary engineering, and construction engineering.''

1987—Subsec. (c). Pub. L. 100–17 substituted ''15 percent'' for ''10 per centum'' and struck out at end ''However, this limitation shall be 15 per centum in any State with respect to which the Secretary finds such higher limitation to be necessary.''

1976—Subsec. (c). Pub. L. 94–280 substituted ''Federal-aid highway funds'' for ''Federal-aid primary, secondary, or urban funds'' and ''such total estimate cost'' for ''such total estimated cost'' and struck out 10 per centum limitation for any project financed with interstate funds.

1970—Subsec. (b). Pub. L. 91–605, § 106(e), inserted reference to the Federal-aid urban system.

Subsec. (d). Pub. L. 91–605, § 142, added subsec. (d).

1963—Subsec. (c). Pub. L. 88–157 substituted ''a project financed with Federal-aid primary, secondary, or urban funds'' for ''the project'' and provided for limitation, on items included in estimates for construction engineering on projects financed with Federal-aid primary, secondary, or urban funds, of 15 percent of total estimated cost of the project where found by the Secretary to be necessary and for 10-percent limitation on projects financed with interstate funds.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

STUDY OF VALUE ENGINEERING

Section 1091 of Pub. L. 102–240 provided that:

''(a) STUDY.—The Secretary shall study the effectiveness and benefits of value engineering review programs applied to Federal-aid highway projects. Such study shall include an analysis of and the results of specialized techniques utilized in all facets of highway construction for the purpose of reduction of costs and improvement of the overall quality of Federal-aid highway projects.

''(b) REPORT.—Not later than 1 year after the date of the enactment of this Act [Dec. 18, 1991], the Secretary shall report to Congress on the results of the study under subsection (a), including recommendations on how value engineering could be utilized and improved in Federal-aid highway projects.''

MODIFICATION OF PROJECT AGREEMENTS TO EFFECTUATE REQUIREMENT OF FOUR-LANES OF TRAFFIC

Pub. L. 89–574, § 5(b), Sept. 13, 1966, 80 Stat. 767, as amended by Pub. L. 97–449, § 2(a), Jan. 12, 1983, 96 Stat. 2439, authorized Secretary to modify project agreements entered into prior to Sept. 13, 1966, pursuant to section 106 of this title for purpose of effectuating amendment made by this section (amending section 109(b) of this title to add a requirement of four lanes of traffic) with respect to as much of National System of Interstate and Defense Highways [now Dwight D. Eisenhower System of Interstate and Defense Highways] as may be possible.

§ 107. Acquisition of rights-of-way—Interstate System

(a) In any case in which the Secretary is requested by a State to acquire lands or interests in lands (including within the term ''interests in lands'', the control of access thereto from adjoining lands) required by such State for right-of-way or other purposes in connection with the prosecution of any project for the construction, reconstruction, or improvement of any section of the Interstate System, the Secretary is authorized, in the name of the United States and prior to the approval of title by the Attorney General, to acquire, enter upon, and take possession of such lands or interests in lands by purchase, donation, condemnation, or otherwise in accordance with the laws of the United States (including sections 3114 to 3116 and 3118 of title 40), if—

(1) the Secretary has determined either that the State is unable to acquire necessary lands or interests in lands, or is unable to acquire such lands or interests in lands with sufficient promptness; and

(2) the State has agreed with the Secretary to pay, at such time as may be specified by the Secretary an amount equal to 10 per centum of the costs incurred by the Secretary, in acquiring such lands or interests in lands, or such lesser percentage which represents the State's pro rata share of project costs as determined in accordance with subsection (c)[1] of section 120 of this title.

The authority granted by this section shall also apply to lands and interests in lands received as grants of land from the United States and owned or held by railroads or other corporations.

(b) The costs incurred by the Secretary in acquiring any such lands or interests in lands may include the cost of examination and abstract of title, certificate of title, advertising, and any fees incidental to such acquisition. All costs incurred by the Secretary in connection with the acquisition of any such lands or interests in lands shall be paid from the funds for construction, reconstruction, or improvement of the Interstate System apportioned to the State upon the request of which such lands or interests in lands are acquired, and any sums paid to the Secretary by such State as its share of the costs of acquisition of such lands or interests in lands shall be deposited in the Treasury to the credit of the appropriation for Federal-aid highways and shall be credited to the amount apportioned to such State as its apportionment of funds for construction, reconstruction, or improvement of the Interstate System, or shall be deducted from other moneys due the State for reimbursement from funds authorized to be appropriated under section 108(b) of the Federal-Aid Highway Act of 1956.

(c) The Secretary is further authorized and directed by proper deed, executed in the name of the United States, to convey any such lands or interests in lands acquired in any State under the provisions of this section, except the outside five feet of any such right-of-way in any State which does not provide control of access, to the State transportation department of such State or such political subdivision thereof as its laws may provide, upon such terms and conditions as to such lands or interests in lands as may be agreed upon by the Secretary and the State transportation department or political subdivisions to which the conveyance is to be made. Whenever the State makes provision for control of access satisfactory to the Secretary, the outside five feet then shall be conveyed to the State by the Secretary, as herein provided.

(d) Whenever rights-of-way, including control of access, on the Interstate System are required over lands or interests in lands owned by the United States, the Secretary may make such arrangements with the agency having jurisdiction

[1] See References in Text note below.

over such lands as may be necessary to give the State or other person constructing the projects on such lands adequate rights-of-way and control of access thereto from adjoining lands, and any such agency is directed to cooperate with the Secretary in this connection.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 892; Pub. L. 105–178, title I, §1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 193; Pub. L. 109–284, §3(1), Sept. 27, 2006, 120 Stat. 1211.)

REFERENCES IN TEXT

Subsection (c) of section 120 of this title, referred to in subsec. (a)(2), was struck out and a new subsec. (c) was added by Pub. L. 102–240, title I, §1021(a), Dec. 18, 1991, 105 Stat. 1950.

The Federal-Aid Highway Act of 1956, referred to in subsec. (b), is act June 29, 1956, ch. 462, 70 Stat. 374. For complete classification of this Act to the Code, see Tables. Section 108(b) of the Federal-Aid Highway Act of 1956 is set out as a note under section 101 of this title.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–284 substituted ''sections 3114 to 3116 and 3118 of title 40'' for ''the Act of February 26, 1931, 46 Stat. 1421''.

1998—Subsec. (c). Pub. L. 105–178 substituted ''State transportation department'' for ''State highway department'' in two places.

§108. Advance acquisition of real property

(a) IN GENERAL.—

(1) AVAILABILITY OF FUNDS.—For the purpose of facilitating the timely and economical acquisition of real property for a transportation improvement eligible for funding under this title, the Secretary, upon the request of a State, may make available, for the acquisition of real property, such funds apportioned to the State as may be expended on the transportation improvement, under such rules and regulations as the Secretary may issue.

(2) CONSTRUCTION.—The agreement between the Secretary and the State for the reimbursement of the cost of the real property shall provide for the actual construction of the transportation improvement within a period not to exceed 20 years following the fiscal year for which the request is made, unless the Secretary determines that a longer period is reasonable.

(b) Federal participation in the cost of rights-of-way acquired under subsection (a) of this section shall not exceed the Federal pro rata share applicable to the class of funds from which Federal reimbursement is made.

(c) EARLY ACQUISITION OF RIGHTS-OF-WAY.—

(1) GENERAL RULE.—Subject to paragraph (2), funds apportioned to a State under this title may be used to participate in the payment of—

(A) costs incurred by the State for acquisition of rights-of-way, acquired in advance of any Federal approval or authorization, if the rights-of-way are subsequently incorporated into a project eligible for surface transportation program funds; and

(B) costs incurred by the State for the acquisition of land necessary to preserve environmental and scenic values.

(2) TERMS AND CONDITIONS.—The Federal share payable of the costs described in paragraph (1) shall be eligible for reimbursement out of funds apportioned to a State under this title when the rights-of-way acquired are incorporated into a project eligible for surface transportation program funds, if the State demonstrates to the Secretary and the Secretary finds that—

(A) any land acquired, and relocation assistance provided, complied with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(B) the requirements of title VI of the Civil Rights Act of 1964 have been complied with;

(C) the State has a mandatory comprehensive and coordinated land use, environment, and transportation planning process under State law and the acquisition is certified by the Governor as consistent with the State plans before the acquisition;

(D) the acquisition is determined in advance by the Governor to be consistent with the State transportation planning process pursuant to section 135 of this title;

(E) the alternative for which the right-of-way is acquired is selected by the State pursuant to regulations to be issued by the Secretary which provide for the consideration of the environmental impacts of various alternatives;

(F) before the time that the cost incurred by a State is approved for Federal participation, environmental compliance pursuant to the National Environmental Policy Act has been completed for the project for which the right-of-way was acquired by the State, and the acquisition has been approved by the Secretary under this Act,[1] and in compliance with section 303 of title 49, section 7 of the Endangered Species Act, and all other applicable environmental laws shall be identified by the Secretary in regulations; and

(G) before the time that the cost incurred by a State is approved for Federal participation, both the Secretary and the Administrator of the Environmental Protection Agency have concurred that the property acquired in advance of Federal approval or authorization did not influence the environmental assessment of the project, the decision relative to the need to construct the project, or the selection of the project design or location.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 893; Pub. L. 86–35, §1, May 29, 1959, 73 Stat. 62; Pub. L. 90–495, §7(a), (b), Aug. 23, 1968, 82 Stat. 818; Pub. L. 93–87, title I, §113, Aug. 13, 1973, 87 Stat. 257; Pub. L. 94–280, title I, §115, May 5, 1976, 90 Stat. 436; Pub. L. 102–240, title I, §1017(a), (b), Dec. 18, 1991, 105 Stat. 1947; Pub. L. 102–388, title III, §346, Oct. 6, 1992, 106 Stat. 1553; Pub. L. 103–429, §3(2), Oct. 31, 1994, 108 Stat. 4377; Pub. L. 105–178, title I, §§1211(e)(1), 1301(a), June 9, 1998, 112 Stat. 188, 225.)

REFERENCES IN TEXT

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in subsec. (c)(2)(A), is act Jan. 2, 1971, Pub. L. 91–646, 84 Stat.

[1] See References in Text note below.

1894, as amended, and which is classified principally to chapter 61 (§ 4601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of Title 42 and Tables.

The Civil Rights Act of 1964, referred to in subsec. (c)(2)(B), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The National Environmental Policy Act, referred to in subsec. (c)(2)(F), probably means the National Environmental Policy Act of 1969, Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

This Act, referred to in subsec. (c)(2)(F), probably means Pub. L. 102–240, Dec. 18, 1991, 105 Stat. 1914, known as the Intermodal Surface Transportation Efficiency Act of 1991. For complete classification of this Act to the Code, see Short Title of 1991 Amendment note set out under section 101 of Title 49, Transportation, and Tables.

Section 7 of the Endangered Species Act, referred to in subsec. (c)(2)(F), probably means section 7 of the Endangered Species Act of 1973, which is classified to section 1536 of Title 16, Conservation.

AMENDMENTS

1998—Pub. L. 105–178, § 1301(a), substituted ''Advance acquisition of real property'' for ''Advance acquisition of rights-of-way'' in section catchline.

Subsec. (a). Pub. L. 105–178, § 1301(a), added subsec. (a) and struck out former subsec. (a) which read as follows: ''For the purpose of facilitating the acquisition of rights-of-way on any Federal-aid highway in the most expeditious and economical manner, and recognizing that the acquisition of rights-of-way requires lengthy planning and negotiations if it is to be done at a reasonable cost, the Secretary, upon the request of the State highway department, is authorized to make available the funds apportioned to any State which may be expended on such highway for acquisition of rights-of-way, in anticipation of construction and under such rules and regulations as the Secretary may prescribe. The agreement between the Secretary and the State highway department for the reimbursement of the cost of such rights-of-way shall provide for the actual construction of a road on such rights-of-way within a period not exceeding 20 years following the fiscal year in which such request is made unless a longer period is determined to be reasonable by the Secretary.''

Subsecs. (c), (d). Pub. L. 105–178, § 1211(e)(1), redesignated subsec. (d) as (c) and struck out former subsec. (c) which related to establishment and administration of right-of-way revolving fund.

1994—Subsec. (d)(2)(F). Pub. L. 103–429 substituted ''section 303 of title 49'' for ''section 4(f) of the Department of Transportation Act''.

1992—Subsec. (a). Pub. L. 102–388, § 346(1), (2), substituted ''Federal-aid highway'' for ''of the Federal-aid highway systems, including the Interstate System,'' and ''which may be expended on such highway'' for ''for expenditure on any of the Federal-aid highway systems, including the Interstate System,''.

Subsec. (c)(2). Pub. L. 102–388, § 346(3), inserted ''and passenger transit facilities''.

Subsec. (c)(3). Pub. L. 102–388, § 346(5), which directed the substitution of ''of the type funded'' for ''on the federal-aid system of which such project is to be part,'' was executed by making the substitution for ''on the Federal-aid system of which such project is to be a part,'' to reflect the probable intent of Congress.

Pub. L. 102–388, § 346(4), substituted ''project'' for ''highway'' after ''construction of a'' in first and second sentences.

1991—Subsecs. (a), (c)(3). Pub. L. 102–240, § 1017(a), substituted ''20'' for ''ten''.

Subsec. (d). Pub. L. 102–240, § 1017(b), added subsec. (d).

1976—Subsec. (a). Pub. L. 94–280, § 115(b), inserted ''unless a longer period is determined to be reasonable by the Secretary'' after ''request is made'' in last sentence.

Subsec. (c)(2). Pub. L. 94–280, § 115(a), struck out ''made pursuant to section 133 or chapter 5 of this title'' after ''relocation payments'' in last sentence.

Subsec. (c)(3). Pub. L. 94–280, § 115(c), inserted ''or later'' after ''earlier'' in first sentence.

1973—Subsec. (a). Pub. L. 93–87, § 113(a), substituted ''ten'' for ''seven'' years in last sentence.

Subsec. (c)(3). Pub. L. 93–87, § 113(b), substituted ''ten'' for ''seven'' years in first sentence.

1968—Subsec. (b). Pub. L. 90–495, § 7(a), substituted ''subsection (a) of this section'' for ''this section''.

Subsec. (c). Pub. L. 90–495, § 7(b), added subsec. (c).

1959—Subsec. (a). Pub. L. 86–35 increased from five to seven years the period in which actual construction shall commence on rights-of-way acquired in anticipation of such construction.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–495 effective Aug. 23, 1968, see section 37 of Pub. L. 90–495, set out as a note under section 101 of this title.

TRANSITION PROVISIONS

Pub. L. 105–178, title I, § 1211(e)(2), June 9, 1998, 112 Stat. 188, provided that:

''(A) IN GENERAL.—Funds advanced to a State by the Secretary from the right-of-way revolving fund established by section 108(c) of title 23, United States Code, prior to the date of enactment of this Act [June 9, 1998] shall remain available to the State for use on the projects for which the funds were advanced for a period of 20 years from the date on which the funds were advanced.

''(B) CREDIT TO HIGHWAY TRUST FUND.—With respect to a project for which funds have been advanced from the right-of-way revolving fund, upon the termination of the 20-year period referred to in subparagraph (A), when actual construction is commenced, or upon approval by the Secretary of the plans, specifications, and estimates for the actual construction of the project on the right-of-way, whichever occurs first—

''(i) the Highway Trust Fund (other than the Mass Transit Account) shall be credited with an amount equal to the Federal share of the funds advanced, as provided in section 120 of title 23, United States Code, out of any Federal-aid highway funds apportioned to the State in which the project is located and available for obligation for projects of the type funded; and

''(ii) the State shall reimburse the Secretary in an amount equal to the non-Federal share of the funds advanced for deposit in, and credit to, the Highway Trust Fund (other than the Mass Transit Account).''

PRESERVATION OF TRANSPORTATION CORRIDORS REPORT

Section 1017(c) of Pub. L. 102–240 provided that: ''The Secretary, in consultation with the States, shall report to Congress within 2 years after the date of the enactment of this Act [Dec. 18, 1991], a national list of the rights-of-way identified by the metropolitan planning organizations and the States (under sections 134 and 135 of title 23, United States Code), including the total mileage involved, an estimate of the total costs, and a

strategy for preventing further loss of rights-of-way including the desirability of creating a transportation right-of-way land bank to preserve vital corridors.''

AUTHORIZATION OF APPROPRIATIONS TO RIGHT-OF-WAY REVOLVING FUND; APPORTIONMENT; REVERSION OF AMOUNTS NOT ADVANCED OR OBLIGATED

Section 7(c)–(e) of Pub. L. 90–495 provided that $100,000,000 for the fiscal year ending June 30, 1970, $100,000,000 for the fiscal year ending June 30, 1971, and $100,000,000 for the fiscal year ending June 30, 1972, be transferred from the highway trust fund to the right-of-way revolving fund established by subsec. (c) of this section, authorized the Secretary to apportion these funds and required that funds apportioned to a State remain available for obligation for advances until Oct. 1 of the fiscal year in which the apportionment was made and any funds not advanced or obligated by such date revert to the right-of-way revolving fund for distribution to other States.

STUDY OF ADVANCE ACQUISITION OF RIGHTS-OF-WAY

Pub. L. 89–574, § 10, Sept. 13, 1966, 80 Stat. 769, as amended by Pub. L. 97–449, § 2(a), Jan. 12, 1983, 96 Stat. 2439, directed the Secretary to make a full and complete investigation and study of the advance acquisition of rights-of-way for future construction of highways on the Federal-aid highway systems, with particular reference to the provision of adequate time for the removal and disposal of improvements located on rights-of-way and the relocation of affected individuals, businesses, institutions, and organizations, the tax status of such property after acquisition and before its use for highway purposes, and the methods for financing advance right-of-way acquisition by both the State governments and the Federal Government, including the possible creation of revolving funds for such purpose. The Secretary was required to submit a report of results of such study to Congress not later than July 1, 1967, together with his recommendations.

INCREASED LIMITATION PERIOD APPLICABLE TO CERTAIN CONTRACTS

Section 2 of Pub. L. 86–35 provided that agreements entered into before May 29, 1959 by the Secretary of Commerce and a State highway department under authority of section 110(a) of the Federal-Aid Highway Act of 1956, or section 108(a) of title 23 of the United States Code shall be deemed to provide for actual construction of a road on such rights-of-way within a period of seven years following the fiscal year in which such request was made.

§ 109. Standards

(a) IN GENERAL.—The Secretary shall ensure that the plans and specifications for each proposed highway project under this chapter provide for a facility that will—

(1) adequately serve the existing and planned future traffic of the highway in a manner that is conducive to safety, durability, and economy of maintenance; and

(2) be designed and constructed in accordance with criteria best suited to accomplish the objectives described in paragraph (1) and to conform to the particular needs of each locality.

(b) The geometric and construction standards to be adopted for the Interstate System shall be those approved by the Secretary in cooperation with the State transportation departments. Such standards, as applied to each actual construction project, shall be adequate to enable such project to accommodate the types and volumes of traffic anticipated for such project for the twenty-year period commencing on the date of approval by the Secretary, under section 106 of this title, of the plans, specifications, and estimates for actual construction of such project. Such standards shall in all cases provide for at least four lanes of traffic. The right-of-way width of the Interstate System shall be adequate to permit construction of projects on the Interstate System to such standards. The Secretary shall apply such standards uniformly throughout all the States.

(c) DESIGN CRITERIA FOR NATIONAL HIGHWAY SYSTEM.—

(1) IN GENERAL.—A design for new construction, reconstruction, resurfacing (except for maintenance resurfacing), restoration, or rehabilitation of a highway on the National Highway System (other than a highway also on the Interstate System) may take into account, in addition to the criteria described in subsection (a)—

(A) the constructed and natural environment of the area;

(B) the environmental, scenic, aesthetic, historic, community, and preservation impacts of the activity; and

(C) access for other modes of transportation.

(2) DEVELOPMENT OF CRITERIA.—The Secretary, in cooperation with State transportation departments, may develop criteria to implement paragraph (1). In developing criteria under this paragraph, the Secretary shall consider—

(A) the results of the committee process of the American Association of State Highway and Transportation Officials as used in adopting and publishing ''A Policy on Geometric Design of Highways and Streets'', including comments submitted by interested parties as part of such process;

(B) the publication entitled ''Flexibility in Highway Design'' of the Federal Highway Administration;

(C) ''Eight Characteristics of Process to Yield Excellence and the Seven Qualities of Excellence in Transportation Design'' developed by the conference held during 1998 entitled ''Thinking Beyond the Pavement National Workshop on Integrating Highway Development with Communities and the Environment while Maintaining Safety and Performance''; and

(D) any other material that the Secretary determines to be appropriate.

(d) On any highway project in which Federal funds hereafter participate, or on any such project constructed since December 20, 1944, the location, form and character of informational, regulatory and warning signs, curb and pavement or other markings, and traffic signals installed or placed by any public authority or other agency, shall be subject to the approval of the State transportation department with the concurrence of the Secretary, who is directed to concur only in such installations as will promote the safe and efficient utilization of the highways.

(e) INSTALLATION OF SAFETY DEVICES.—

(1) HIGHWAY AND RAILROAD GRADE CROSSINGS AND DRAWBRIDGES.—No funds shall be approved

for expenditure on any Federal-aid highway, or highway affected under chapter 2 of this title, unless proper safety protective devices complying with safety standards determined by the Secretary at that time as being adequate shall be installed or be in operation at any highway and railroad grade crossing or drawbridge on that portion of the highway with respect to which such expenditures are to be made.

(2) TEMPORARY TRAFFIC CONTROL DEVICES.—No funds shall be approved for expenditure on any Federal-aid highway, or highway affected under chapter 2, unless proper temporary traffic control devices to improve safety in work zones will be installed and maintained during construction, utility, and maintenance operations on that portion of the highway with respect to which such expenditures are to be made. Installation and maintenance of the devices shall be in accordance with the Manual on Uniform Traffic Control Devices.

(f) The Secretary shall not, as a condition precedent to his approval under section 106 of this title, require any State to acquire title to, or control of, any marginal land along the proposed highway in addition to that reasonably necessary for road surfaces, median strips, bikeways, gutters, ditches, and side slopes, and of sufficient width to provide service roads for adjacent property to permit safe access at controlled locations in order to expedite traffic, promote safety, and minimize roadside parking.

(g) Not later than January 30, 1971, the Secretary shall issue guidelines for minimizing possible soil erosion from highway construction. Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines.

(h) Not later than July 1, 1972, the Secretary, after consultation with appropriate Federal and State officials, shall submit to Congress, and not later than 90 days after such submission, promulgate guidelines designed to assure that possible adverse economic, social, and environmental effects relating to any proposed project on any Federal-aid system have been fully considered in developing such project, and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for fast, safe and efficient transportation, public services, and the costs of eliminating or minimizing such adverse effects and the following:

(1) air, noise, and water pollution;

(2) destruction or disruption of man-made and natural resources, aesthetic values, community cohesion and the availability of public facilities and services;

(3) adverse employment effects, and tax and property value losses;

(4) injurious displacement of people, businesses and farms; and

(5) disruption of desirable community and regional growth.

Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines.

(i) The Secretary, after consultation with appropriate Federal, State, and local officials, shall develop and promulgate standards for highway noise levels compatible with different land uses and after July 1, 1972, shall not approve plans and specifications for any proposed project on any Federal-aid system for which location approval has not yet been secured unless he determines that such plans and specifications include adequate measures to implement the appropriate noise level standards. The Secretary, after consultation with the Administrator of the Environmental Protection Agency and appropriate Federal, State, and local officials, may promulgate standards for the control of highway noise levels for highways on any Federal-aid system for which project approval has been secured prior to July 1, 1972. The Secretary may approve any project on a Federal-aid system to which noise-level standards are made applicable under the preceding sentence for the purpose of carrying out such standards. Such project may include, but is not limited to, the acquisition of additional rights-of-way, the construction of physical barriers, and landscaping. Sums apportioned for the Federal-aid system on which such project will be located shall be available to finance the Federal share of such project. Such project shall be deemed a highway project for all purposes of this title.

(j) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall develop and promulgate guidelines to assure that highways constructed pursuant to this title are consistent with any approved plan for—

(1) the implementation of a national ambient air quality standard for each pollutant for which an area is designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or

(2) the maintenance of a national ambient air quality standard in an area that was designated as a nonattainment area but that was later redesignated by the Administrator as an attainment area for the standard and that is required to develop a maintenance plan under section 175A of the Clean Air Act (42 U.S.C. 7505a).

(k) The Secretary shall not approve any project involving approaches to a bridge under this title, if such project and bridge will significantly affect the traffic volume and the highway system of a contiguous State without first taking into full consideration the views of that State.

(*l*)(1) In determining whether any right-of-way on any Federal-aid highway should be used for accommodating any utility facility, the Secretary shall—

(A) first ascertain the effect such use will have on highway and traffic safety, since in no case shall any use be authorized or otherwise permitted, under this or any other provision of law, which would adversely affect safety;

(B) evaluate the direct and indirect environmental and economic effects of any loss of productive agricultural land or any impairment of the productivity of any agricultural land which would result from the disapproval of the use of such right-of-way for the accommodation of such utility facility; and

(C) consider such environmental and economic effects together with any interference with or impairment of the use of the highway in such right-of-way which would result from the use of such right-of-way for the accommodation of such utility facility.

(2) For the purpose of this subsection—

(A) the term ''utility facility'' means any privately, publicly, or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, which directly or indirectly serves the public; and

(B) the term ''right-of-way'' means any real property, or interest therein, acquired, dedicated, or reserved for the construction, operation, and maintenance of a highway.

(m) PROTECTION OF NONMOTORIZED TRANSPORTATION TRAFFIC.—The Secretary shall not approve any project or take any regulatory action under this title that will result in the severance of an existing major route or have significant adverse impact on the safety for nonmotorized transportation traffic and light motorcycles, unless such project or regulatory action provides for a reasonable alternate route or such a route exists.

(n) It is the intent of Congress that any project for resurfacing, restoring, or rehabilitating any highway, other than a highway access to which is fully controlled, in which Federal funds participate shall be constructed in accordance with standards to preserve and extend the service life of highways and enhance highway safety.

(*o*) COMPLIANCE WITH STATE LAWS FOR NON-NHS PROJECTS.—Projects (other than highway projects on the National Highway System) shall be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards.

(p) SCENIC AND HISTORIC VALUES.—Notwithstanding subsections (b) and (c), the Secretary may approve a project for the National Highway System if the project is designed to—

(1) allow for the preservation of environmental, scenic, or historic values;

(2) ensure safe use of the facility; and

(3) comply with subsection (a).

(q) PHASE CONSTRUCTION.—Safety considerations for a project under this title may be met by phase construction consistent with the operative safety management system established in accordance with section 303 or in accordance with a statewide transportation improvement program approved by the Secretary.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 894; Pub. L. 88–157, §4, Oct. 24, 1963, 77 Stat. 277; Pub. L. 89–574, §§5(a), 14, Sept. 13, 1966, 80 Stat. 767, 771; Pub. L. 91–605, title I, §136(a), (b), Dec. 31, 1970, 84 Stat. 1734; Pub. L. 93–87, title I, §§114, 152(2), 156, Aug. 13, 1973, 87 Stat. 257, 276, 277; Pub. L. 95–599, title I, §§113, 116(d), 141(f), (g), Nov. 6, 1978, 92 Stat. 2696, 2699, 2711; Pub. L. 96–106, §3, Nov. 9, 1979, 93 Stat. 797; Pub. L. 97–424, title I, §110(a), Jan. 6, 1983, 96 Stat. 2105; Pub. L. 102–240, title I, §1016(c)–(f)(1), Dec. 18, 1991, 105 Stat. 1946; Pub. L. 104–59, title III, §§304, 305(a), Nov. 28, 1995, 109 Stat. 579, 580; Pub. L. 105–178, title I, §§1202(c), 1212(a)(2)(A), 1306, June 9, 1998, 112 Stat. 169, 193, 229; Pub. L. 109–59, title I, §1110(a), (c), title VI, §6008, Aug. 10, 2005, 119 Stat. 1170, 1171, 1874.)

AMENDMENTS

2005—Subsec. (c)(2). Pub. L. 109–59, §6008, inserted dash after ''Secretary shall consider'' and subpar. (A) designation before ''the results'', substituted semicolon for period, and added subpars. (B) to (D).

Subsec. (e). Pub. L. 109–59, §1110(a), inserted subsec. heading, designated existing provisions as par. (1), inserted par. heading, and added par. (2).

Subsec. (g). Pub. L. 109–59, §1110(c), substituted ''Not later than January 30, 1971, the Secretary shall issue'' for ''The Secretary shall issue within 30 days after the day of enactment of the Federal-Aid Highway Act of 1970''.

1998—Subsecs. (b), (c)(2). Pub. L. 105–178, §1212(a)(2)(A)(ii), substituted ''State transportation departments'' for ''State highway departments''.

Subsec. (d). Pub. L. 105–178, §1212(a)(2)(A)(i), substituted ''State transportation department'' for ''State highway department''.

Subsec. (m). Pub. L. 105–178, §1306(a), redesignated subsec. (n) as (m) and struck out former subsec. (m) which read as follows: ''The Secretary shall issue guidelines describing the criteria applicable to the Interstate System in order to insure that the condition of these routes is maintained at the level required by the purposes for which they were designed. The initial guidelines shall be issued no later than October 1, 1979.''

Subsec. (n). Pub. L. 105–178, §1306(a)(2), redesignated subsec. (*o*) as (n). Former subsec. (n) redesignated (m).

Pub. L. 105–178, §1202(c), inserted heading and amended text of subsec. (n) generally. Prior to amendment, text read as follows: ''The Secretary shall not approve any project under this title that will result in the severance or destruction of an existing major route for nonmotorized transportation traffic and light motorcycles, unless such project provides a reasonably alternate route or such a route exists.''

Subsecs. (*o*) to (q). Pub. L. 105–178, §1306(a)(2), (b), added subsec. (q) and redesignated former subsecs. (p) and (q) as (*o*) and (p), respectively. Former subsec. (*o*) redesignated (n).

1995—Subsec. (a). Pub. L. 104–59, §304(1), added subsec. (a) and struck out former subsec. (a) which read as follows: ''The Secretary shall not approve plans and specifications for proposed highway projects under this chapter if they fail to provide for a facility (1) that will adequately meet the existing and probable future traffic needs and conditions in a manner conducive to safety, durability, and economy of maintenance; (2) that will be designed and constructed in accordance with standards best suited to accomplish the foregoing objectives and to conform to the particular needs of each locality.''

Subsec. (c). Pub. L. 104–59, §304(2), added subsec. (c) and struck out former subsec. (c) which read as follows: ''(c) DESIGN AND CONSTRUCTION STANDARDS FOR NHS.—Design and construction standards to be adopted for new construction on the National Highway System, for reconstruction on the National Highway System, and for resurfacing, restoring, and rehabilitating multilane limited access highways on the National Highway System shall be those approved by the Secretary in cooperation with the State highway departments. All eligible work for such projects shall meet or exceed such standards.''

Subsec. (j). Pub. L. 104–59, §305(a), substituted ''plan for—'' and pars. (1) and (2) for ''plan for the implemen-

tation of any ambient air quality standard for any air quality control region designated pursuant to the Clean Air Act, as amended.''

Subsec. (q). Pub. L. 104–59, § 304(3), added subsec. (q) and struck out former subsec. (q) which read as follows:

''(q) HISTORIC AND SCENIC VALUES.—If a proposed project under sections 103(e)(4), 133, or 144 involves a historic facility or is located in an area of historic or scenic value, the Secretary may approve such project notwithstanding the requirements of subsections (a) and (b) of this section and section 133(c) if such project is designed to standards that allow for the preservation of such historic or scenic value and such project is designed with mitigation measures to allow preservation of such value and ensure safe use of the facility.''

1991—Subsec. (a). Pub. L. 102–240, § 1016(f)(1)(A), substituted ''highway projects under this chapter'' for ''projects on any Federal-aid system''.

Subsec. (c). Pub. L. 102–240, § 1016(c), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''Projects on the Federal-aid secondary system in which Federal funds participate shall be constructed according to specifications that will provide all-weather service and permit maintenance at a reasonable cost.''

Subsec. (*l*)(1). Pub. L. 102–240, § 1016(f)(1)(B), substituted ''highway'' for ''system'' in introductory provisions.

Subsecs. (p), (q). Pub. L. 102–240, § 1016(d), (e), added subsecs. (p) and (q).

1983—Subsec. (*o*). Pub. L. 97–424 added subsec. (*o*).

1979—Subsec. (*l*)(1)(A). Pub. L. 96–106 struck out ''any aspect of'' after ''adversely affect''.

1978—Subsec. (f). Pub. L. 95–599, § 141(f), inserted ''bikeways'' after ''surfaces, median strips,''.

Subsec. (*l*). Pub. L. 95–599, § 113, added subsec. (*l*).

Subsec. (m). Pub. L. 95–599, § 116(d), added subsec. (m).

Subsec. (n). Pub. L. 95–599, § 141(g), added subsec. (n).

1973—Subsec. (g). Pub. L. 93–87, § 152(2), substituted ''Act'' for ''Rct'', thus correcting the popular name to read ''Federal-Aid Highway Act of 1970''.

Subsec. (i). Pub. L. 93–87, § 114, authorized promulgation of noise-level standards for highways on any Federal-aid system for which project approval has been secured prior to July 1, 1972, and approval of any project on a Federal-aid system to which noise-level standards are made applicable, described the range of the projects, made money available for financing Federal share of the project, and deemed such project a highway project for all purposes of this title.

Subsec. (k). Pub. L. 93–87, § 156, added subsec. (k).

1970—Subsec. (g). Pub. L. 91–605, § 136(a), substituted provisions ordering the Secretary to issue within 30 days after Dec. 31, 1970, guidelines, which will apply to all proposed projects approved by the Secretary after their issuance, for minimizing soil erosion from highway construction for provisions authorizing the Secretary to consult with the Secretary of Agriculture respecting guidelines for minimizing soil erosion from highway construction and report such guidelines to Congress not later than July 1, 1967.

Subsecs. (h) to (j). Pub. L. 91–605, § 136(b), added subsecs. (h) to (j).

1966—Subsec. (b). Pub. L. 89–574, § 5(a), required that in all cases the standards provide for at least four lanes of traffic.

Subsec. (g). Pub. L. 89–574, § 14, added subsec. (g).

1963—Subsec. (b). Pub. L. 88–157 substituted ''Such standards, as applied to each actual construction project, shall be adequate to enable such project to accommodate the types and volumes of traffic anticipated for such project for the twenty-year period commencing on the date of approval by the Secretary, under section 106 of this title, of the plans, specifications, and estimates for actual construction of such project'' for ''Such standards shall be adequate to accommodate the types and volumes of traffic forecast for the year 1975'', struck out ''up'' before ''to such standards'' and inserted ''all'' in phrase ''throughout all the States''.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

HIGHWAY SIGNS RELATING TO VETERANS CEMETERIES

Pub. L. 108–29, § 3, May 29, 2003, 117 Stat. 772, provided that:

''(a) IN GENERAL.—Notwithstanding the terms of any agreement entered into by the Secretary of Transportation and a State under section 109(d) or 402(a) of title 23, United States Code, a veterans cemetery shall be treated as a site for which a supplemental guide sign may be placed on any Federal-aid highway.

''(b) APPLICABILITY.—Subsection (a) shall apply to an agreement entered into before, on, or after the date of the enactment of this Act [May 29, 2003].''

INTERNATIONAL ROUGHNESS INDEX

Pub. L. 105–178, title I, § 1213(b), June 9, 1998, 112 Stat. 200, provided that:

''(1) STUDY.—The Comptroller General of the United States shall conduct a study on the international roughness index that is used as an indicator of pavement quality on the Federal-aid highway system.

''(2) REQUIRED ELEMENTS.—The study shall specify the extent of usage of the index and the extent to which the international roughness index measurement is reliable across different manufacturers and types of pavement.

''(3) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act [June 9, 1998], the Comptroller General shall submit to Congress a report on the results of the study.''

ENVIRONMENTAL STREAMLINING

Pub. L. 105–178, title I, § 1309, June 9, 1998, 112 Stat. 232, as amended by Pub. L. 105–206, title IX, § 9004(c), July 22, 1998, 112 Stat. 843, which directed the Secretary of Transportation to develop and implement a coordinated environmental review process for highway construction and mass transit projects, was repealed by Pub. L. 109–59, title VI, § 6002(d), Aug. 10, 2005, 119 Stat. 1865.

ROADSIDE SAFETY TECHNOLOGIES

Pub. L. 105–178, title I, § 1402, June 9, 1998, 112 Stat. 236, as amended by Pub. L. 105–206, title IX, § 9005(c), July 22, 1998, 112 Stat. 848, provided that:

''(a) CRASH CUSHIONS.—

''(1) GUIDANCE.—Not later than 18 months after the date of enactment of this Act [June 9, 1998], the Secretary shall issue guidance regarding the benefits and safety performance of redirective and nonredirective crash cushions in different road applications, taking into consideration roadway conditions, operating speed limits, the location of the crash cushion in the right-of-way, and any other relevant factors. The guidance shall include recommendations on the most appropriate circumstances for utilization of redirective and nonredirective crash cushions.

''(2) USE OF GUIDANCE.—States shall use the guidance issued under this subsection in evaluating the safety and cost-effectiveness of utilizing different crash cushion designs and determining whether redirective or nonredirective crash cushions or other safety appurtenances should be installed at specific highway locations.

''(b) TRAFFIC FLOW AND SAFETY APPLICATIONS OF ROAD BARRIERS.—

''(1) STUDY.—The Secretary shall conduct a study on the technologies and methods to enhance safety, streamline construction, and improve capacity by providing positive separation at all times between

traffic, equipment, and workers on highway construction projects. The study shall also address how such technologies can be used to improve capacity and safety at those specific highway, bridge, and other appropriate locations where reversible lane, contraflow, and high occupancy vehicle lane operations are implemented during peak traffic periods.

''(2) USES TO CONSIDER.—In conducting the study, the Secretary shall consider, at a minimum, uses of positive separation technologies related to—

''(A) separating workers from traffic flow when work is in progress;

''(B) providing additional safe work space by utilizing adjacent and available traffic lanes during off-peak hours;

''(C) rapid deployment to allow for daily or periodic restoration of lanes for use by traffic during peak hours as needed;

''(D) mitigating congestion caused by construction by—

''(i) opening all adjacent and available lanes to traffic during peak traffic hours; or

''(ii) using reversible lanes to optimize capacity of the highway by adjusting to directional traffic flow; and

''(E) permanent use of positive separation technologies to create contraflow or reversible lanes to increase the capacity of congested highways, bridges, and tunnels.

''(3) REPORT.—Not later than 18 months after the date of enactment of this Act [June 9, 1998], the Secretary shall submit to Congress a report on the results of the study. The report shall include findings and recommendations for the use of the technologies referred to in paragraph (2) to provide positive separation on appropriate projects.''

METRIC REQUIREMENTS

Pub. L. 104–59, title II, §205(c), Nov. 28, 1995, 109 Stat. 577, as amended by Pub. L. 105–178, title I, §1211(d), June 9, 1998, 112 Stat. 188, provided that:

''(1) PLACEMENT AND MODIFICATION OF SIGNS.—The Secretary shall not require the States to expend any Federal or State funds to construct, erect, or otherwise place or to modify any sign relating to a speed limit, distance, or other measurement on a highway for the purpose of having such sign establish such speed limit, distance, or other measurement using the metric system.

''(2) OTHER ACTIONS.—The Secretary shall not require that any State use or plan to use the metric system with respect to designing or advertising, or preparing plans, specifications, estimates, or other documents, for a Federal-aid highway project eligible for assistance under title 23, United States Code.

''(3) DEFINITIONS.—In this subsection, the following definitions apply:

''(A) HIGHWAY.—The term 'highway' has the meaning such term has under section 101 of title 23, United States Code.

''(B) METRIC SYSTEM.—The term 'metric system' has the meaning the term 'metric system of measurement' has under section 4 of the Metric Conversion Act of 1975 (15 U.S.C. 205c).''

TYPE II NOISE BARRIERS

Section 339(b) of Pub. L. 104–59 provided that:

''(1) GENERAL RULE.—No funds made available out of the Highway Trust Fund may be used to construct Type II noise barriers (as defined by section 772.5(i) of title 23, Code of Federal Regulations) pursuant to subsections (h) and (i) of section 109 of title 23, United States Code, if such barriers were not part of a project approved by the Secretary before the date of the enactment of this Act [Nov. 28, 1995].

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to construction of Type II noise barriers along lands that were developed or were under substantial construction before approval of the acquisition of the rights-of-ways for, or construction of, the existing highway.''

HIGHWAY SIGNS FOR NATIONAL HIGHWAY SYSTEM

Section 359(b) of Pub. L. 104–59 provided that:

''(1) STUDY.—The Secretary shall conduct a study to determine the cost, need, and efficacy of establishing a highway sign for identifying routes on the National Highway System. In conducting the study, the Secretary shall make a determination concerning whether to identify National Highway System route numbers.

''(2) REPORT.—Not later than March 1, 1997, the Secretary shall transmit to Congress a report on the results of the study.''

USE OF RECYCLED PAVING MATERIAL

Section 1038 of Pub. L. 102–240, as amended by Pub. L. 104–59, title II, §205(b), title III, §327, Nov. 28, 1995, 109 Stat. 577, 592, provided that:

''(a) ASPHALT PAVEMENT CONTAINING RECYCLED RUBBER DEMONSTRATION PROGRAM.—Notwithstanding any other provision of title 23, United States Code, or regulation or policy of the Department of Transportation, the Secretary (or a State acting as the Department's agent) may not disapprove a highway project under chapter 1 of title 23, United States Code, on the ground that the project includes the use of asphalt pavement containing recycled rubber. Under this subsection, a patented application process for recycled rubber shall be eligible for approval under the same conditions that an unpatented process is eligible for approval.

''(b) STUDIES.—

''(1) IN GENERAL.—The Secretary and the Administrator of the Environmental Protection Agency shall coordinate and conduct, in cooperation with the States, a study to determine—

''(A) the threat to human health and the environment associated with the production and use of asphalt pavement containing recycled rubber;

''(B) the degree to which asphalt pavement containing recycled rubber can be recycled; and

''(C) the performance of the asphalt pavement containing recycled rubber under various climate and use conditions.

''(2) DIVISION OF RESPONSIBILITIES.—The Administrator shall conduct the part of the study relating to paragraph (1)(A) and the Secretary shall conduct the part of the study relating to paragraph (1)(C). The Administrator and the Secretary shall jointly conduct the study relating to paragraph (1)(B).

''(3) ADDITIONAL STUDY.—The Secretary and the Administrator, in cooperation with the States, shall jointly conduct a study to determine the economic savings, technical performance qualities, threats to human health and the environment, and environmental benefits of using recycled materials in highway devices and appurtenances and highway projects, including asphalt containing over 80 percent reclaimed asphalt, asphalt containing recycled glass, and asphalt containing recycled plastic.

''(4) ADDITIONAL ELEMENTS.—In conducting the study under paragraph (3), the Secretary and the Administrator shall examine utilization of various technologies by States and shall examine the current practices of all States relating to the reuse and disposal of materials used in federally assisted highway projects.

''(5) REPORT.—Not later than 18 months after the date of the enactment of this Act [Dec. 18, 1991], the Secretary and the Administrator shall transmit to Congress a report on the results of the studies conducted under this subsection, including a detailed analysis of the economic savings and technical performance qualities of using such recycled materials in federally assisted highway projects and the environmental benefits of using such recycled materials in such highway projects in terms of reducing air emissions, conserving natural resources, and reducing disposal of the materials in landfills.

''(c) DOT GUIDANCE.—

''(1) INFORMATION GATHERING AND DISTRIBUTION.—The Secretary shall gather information and recom-

mendations concerning the use of asphalt containing recycled rubber in highway projects from those States that have extensively evaluated and experimented with the use of such asphalt and implemented such projects and shall make available such information and recommendations on the use of such asphalt to those States which indicate an interest in the use of such asphalt.

''(2) ENCOURAGEMENT OF USE.—The Secretary should encourage the use of recycled materials determined to be appropriate by the studies pursuant to subsection (b) in federally assisted highway projects. Procuring agencies shall comply with all applicable guidelines or regulations issued by the Administrator of the Environmental Protection Agency.

''(d) ASPHALT PAVEMENT CONTAINING RECYCLED RUBBER.—

''(1) CRUMB RUBBER MODIFIER RESEARCH.—Not later than 180 days after the date of the enactment of the National Highway System Designation Act of 1995 [Nov. 28, 1995], the Secretary shall develop testing procedures and conduct research to develop performance grade classifications, in accordance with the strategic highway research program carried out under section 307(d) of title 23, United States Code, for crumb rubber modifier binders. The testing procedures and performance grade classifications should be developed in consultation with representatives of the crumb rubber modifier industry and other interested parties (including the asphalt paving industry) with experience in the development of the procedures and classifications.

''(2) CRUMB RUBBER MODIFIER PROGRAM DEVELOPMENT.—

''(A) IN GENERAL.—The Secretary may make grants to States to develop programs to use crumb rubber from scrap tires to modify asphalt pavements.

''(B) USE OF GRANT FUNDS.—Grant funds made available to States under this paragraph shall be used—

''(i) to develop mix designs for crumb rubber modified asphalt pavements;

''(ii) for the placement and evaluation of crumb rubber modified asphalt pavement field tests; and

''(iii) for the expansion of State crumb rubber modifier programs in existence on the date the grant is made available.

''(e) DEFINITIONS.—For purpose of this section—

''(1) the term 'asphalt pavement containing recycled rubber' means any mixture of asphalt and crumb rubber derived from whole scrap tires, such that the physical properties of the asphalt are modified through the mixture, for use in pavement maintenance, rehabilitation, or construction applications; and

''(2) the term 'recycled rubber' is any crumb rubber derived from processing whole scrap tires or shredded tire material taken from automobiles, trucks, or other equipment owned and operated in the United States.''

SURVEY AND REPORT ON UPGRADING OF DESIGN STANDARDS

Section 1049 of Pub. L. 102–240 directed Secretary to conduct a survey to identify current State standards relating to geometric design, traffic control devices, roadside safety, safety appurtenance design, uniform traffic control devices, and sign legibility and directional clarity for all Federal-aid highways and, not later than 2 years after Dec. 18, 1991, to transmit to Congress a report on the results of the survey and the crashworthiness of traffic lights, traffic signs, guardrails, impact attenuators, concrete barrier treatments, and breakaway utility poles for bridges and roadways currently used by States.

EROSION CONTROL GUIDELINES

Section 1057 of title I of Pub. L. 102–240 provided that:

''(a) DEVELOPMENT.—The Secretary shall develop erosion control guidelines for States to follow in carrying out construction projects funded in whole or in part under this title [see Tables for classification].

''(b) MORE STRINGENT STATE REQUIREMENTS.—Guidelines developed under subsection (a) shall not preempt any requirement made by or under State law if such requirement is more stringent than the guidelines.

''(c) CONSISTENCY WITH OTHER PROGRAMS.—Guidelines developed under subsection (a) shall be consistent with nonpoint source management programs under section 319 of the Federal Water Pollution Control Act [33 U.S.C. 1329] and coastal nonpoint pollution control guidance under section 6217(g) of the Omnibus Budget Reconciliation Act of 1990 [16 U.S.C. 1455b(g)].''

ROADSIDE BARRIER TECHNOLOGY

Section 1058 of Pub. L. 102–240, as amended by Pub. L. 104–59, title III, § 328, Nov. 28, 1995, 109 Stat. 593, provided that:

''(a) REQUIREMENT FOR INNOVATIVE BARRIERS.—Not less than 2½ percent of the mileage of new or replacement permanent or temporary crashworthy barriers included in awarded contracts along Federal-aid highways within the boundaries of a State in each calendar year shall be innovative crashworthy safety barriers.

''(b) CERTIFICATION.—Each State shall annually certify to the Secretary its compliance with the requirements of this section.

''(c) DEFINITION OF INNOVATIVE CRASHWORTHY SAFETY BARRIER.—For purposes of this section, the term 'innovative crashworthy safety barrier' means a barrier, other than a guardrail or guiderail, classified by the Federal Highway Administration as 'experimental' or that was classified as 'operational' after January 1, 1985, and that meets or surpasses the requirements of the National Cooperative Highway Research Program 350 for longitudinal barriers.''

ROADSIDE BARRIERS AND SAFETY APPURTENANCES

Section 1073 of Pub. L. 102–240 provided that:

''(a) INITIATION OF RULEMAKING PROCEEDING.—Not later than 30 days after the date of the enactment of this Act [Dec. 18, 1991], the Secretary shall initiate a rulemaking proceeding to revise the guidelines and establish standards for installation of roadside barriers and other safety appurtenances, including longitudinal barriers, end terminals, and crash cushions. Such rulemaking shall reflect state-of-the-art designs, testing, and evaluation criteria contained in the National Cooperative Highway Research Program Report 230, relating to approval standards which provide an enhanced level of crashworthy performance to accommodate vans, mini-vans, pickup trucks, and 4-wheel drive vehicles.

''(b) FINAL RULE.—Not later than 1 year after the date of the enactment of this Act [Dec. 18, 1991], the Secretary shall complete the rulemaking proceeding initiated under subsection (a), and issue a final rule regarding the implementation of revised guidelines and standards for acceptable roadside barriers and other safety appurtenances, including longitudinal barriers, end terminals, and crash cushions. Such revised guidelines and standards shall accommodate vans, minivans, pickup trucks, and 4-wheel drive vehicles and shall be applicable to the refurbishment and replacement of existing roadside barriers and safety appurtenances as well as to the installation of new roadside barriers and safety appurtenances.''

STUDIES RELATING TO ESTABLISHMENT OF STANDARDS FOR RESURFACING, RESTORATION, AND REHABILITATION OF HIGHWAYS AND TO ESTABLISHMENT OF UNIFORM STANDARDS AND CRITERIA FOR TESTING AND INSPECTING HIGHWAYS AND BRIDGES

Section 110(b), (c) of Pub. L. 97–424 provided that:

''(b) The Secretary of Transportation shall enter into appropriate arrangements with the National Academy of Sciences (1) to conduct a study of the safety cost-effectiveness of geometric design criteria of standards

currently in effect for construction and reconstruction of highways, other than highways access to which is fully controlled, to determine the most appropriate minimum standards to apply to resurfacing, restoration, and rehabilitation projects on such highways, which study shall include a study of the cost effectiveness of the hot dip galvanizing process for the installation, repair, or replacement of exposed structural and miscellaneous steel, and (2) to propose standards to preserve and extend the service life of such highways and enhance highway safety. The National Academy of Sciences shall conduct such study in cooperation with the National Transportation Safety Board, the Congressional Budget Office, and the American Association of State Highway and Transportation Officials. Upon completion of such study, the National Academy of Sciences shall submit such study and its proposed standards to the Secretary of Transportation for review. Within ninety days after submission of such standards to the Secretary of Transportation, the Secretary shall submit such study and the proposed standards of the National Academy of Sciences, together with the recommendations of the Secretary, to Congress for approval.

''(c)(1) The Secretary of Transportation is directed to coordinate a study with the National Bureau of Standards, the American Society for Testing and Materials, and other organizations as deemed appropriate, (A) to determine the existing quality of design, construction, products, use, and systems for highways and bridges; (B) to determine the need for uniform standards and criteria for design, processing, products, and applications, including personnel training and implementation of enforcement techniques; and (C) to determine the manpower needs and costs of developing a national system for the evaluation and accreditation of testing and inspection agencies.

''(2) The Secretary shall submit such study to the Congress not later than one year after the date of enactment of this section [Jan. 6, 1983].''

EXPENDITURE OF FEDERAL FUNDS FOR HIGHWAY SIGNS USING METRIC SYSTEM

Section 144 of Pub. L. 95–599, as amended by Pub. L. 96–106, §14, Nov. 9, 1979, 93 Stat. 798, which prohibited use of Federal funds for signing solely in the metric system, was repealed by Pub. L. 102–240, title I, §1053, Dec. 18, 1991, 105 Stat. 2001.

MODIFICATION OF PROJECT AGREEMENTS TO EFFECTUATE REQUIREMENT OF FOUR-LANES OF TRAFFIC

Authorization to modify projects agreements entered into prior to September 13, 1966, to effectuate the amendment of this section by Pub. L. 89–574 which added the requirement of four-lanes of traffic, see section 5(b) of Pub. L. 89–574, set out as a note under section 106 of this title.

§110. Revenue aligned budget authority

(a) IN GENERAL.—

(1) ALLOCATION.—On October 15 of fiscal year 2007 and each fiscal year thereafter, the Secretary shall allocate for such fiscal year and the succeeding fiscal year an amount of funds equal to the amount determined pursuant to section 251(b)(1)(B)(ii)(I)(cc) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C 901(b)(2)(B)(ii)(I)(cc))[1] if the amount determined pursuant to such section for such fiscal year is greater than zero.

(2) REDUCTION.—If the amount determined pursuant to section 251(b)(1)(B)(ii)(I)(cc) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C 901(b)(2)(B)(ii)(I)(cc))[1] for fiscal year 2007 or any fiscal year thereafter is less than zero, the Secretary on October 15 of such fiscal year shall reduce proportionately the amount of sums authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for such fiscal year and the succeeding fiscal year to carry out each of the Federal-aid highway and highway safety construction programs (other than emergency relief) and the motor carrier safety grant program by an aggregate amount equal to the amount determined pursuant to such section. No reduction under this paragraph and no reduction under section 1102(h), and no reduction under title VIII or any amendment made by title VIII, of the SAFETEA–LU shall be made for a fiscal year if, as of October 1 of such fiscal year the balance in the Highway Trust Fund (other than the Mass Transit Account) exceeds $6,000,000,000.

(b) GENERAL DISTRIBUTION.—The Secretary shall—

(1) determine the ratio that—

(A) the sums authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for each of the Federal-aid highway and highway safety construction programs (other than the equity bonus program) and the motor carrier safety grant program for which funds are allocated from such Trust Fund by the Secretary under this title, the SAFETEA–LU, and subchapter I of chapter 311 of title 49 for a fiscal year, bears to

(B) the total of all sums authorized to be appropriated from such Trust Fund for such programs for such fiscal year;

(2) multiply the ratio determined under paragraph (1) by the total amount of funds to be allocated under subsection (a)(1) for such fiscal year;

(3) allocate the amount determined under paragraph (2) among such programs in the ratio that—

(A) the sums authorized to be appropriated from such Trust Fund for each of such programs for such fiscal year, bears to

(B) the sums authorized to be appropriated from such Trust Fund for all such programs for such fiscal year; and

(4) allocate the remainder of the funds to be allocated under subsection (a)(1) for such fiscal year to the States in the ratio that—

(A) the total of all funds authorized to be appropriated from such Trust Fund for Federal-aid highway and highway safety construction programs that are apportioned to each State for such fiscal year but for this section, bears to

(B) the total of all funds authorized to be appropriated from such Trust Fund for such programs that are apportioned to all States for such fiscal year but for this section.

(c) STATE PROGRAMMATIC DISTRIBUTION.—Of the funds to be apportioned to each State under subsection (b)(4) for a fiscal year, the Secretary shall ensure that such funds are apportioned for the Interstate and National Highway System

[1] So in original. Probably should be ''(2 U.S.C. 901(b)(1)(B)(ii)(I)(cc))''.

program, the bridge program, the surface transportation program, the highway safety improvement program, and the congestion mitigation air quality improvement program in the same ratio that each State is apportioned funds for such programs for such fiscal year but for this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to carry out this section for fiscal years beginning after September 30, 1998.

(e) After making any calculation necessary to implement this section for fiscal year 2001, the amount available under paragraph (a)(1) shall be increased by $128,752,000. The amounts added under this subsection shall not apply to any calculation in any other fiscal year.

(f) For fiscal year 2001, prior to making any distribution under this section, $22,029,000 of the allocation under paragraph (a)(1) shall be available only for each program authorized under chapter 53 of title 49, United States Code, and title III of Public Law 105–178, in proportion to each such program's share of the total authorization in section 5338 (other than 5338(h)) of such title and sections 3037 and 3038 of such Public Law, under the terms and conditions of chapter 53 of such title.

(g) For fiscal year 2001, prior to making any distribution under this section, $399,000 of the allocation under paragraph (a)(1) shall be available only for motor carrier safety programs under sections 31104 and 31107 of title 49, United States Code; $274,000 for NHTSA operations and research under section 403 of title 23, United States Code; and $787,000 for NHTSA highway traffic safety grants under chapter 4 of title 23, United States Code.

(Added and amended Pub. L. 105–178, title I, § 1105(a), (c), June 9, 1998, 112 Stat. 130; Pub. L. 105–206, title IX, § 9002(e), July 22, 1998, 112 Stat. 835; Pub. L. 106–113, div. B, § 1000(a)(5) [title III, § 304], Nov. 29, 1999, 113 Stat. 1536, 1501A–306; Pub. L. 106–159, title I, § 102(a)(2), Dec. 9, 1999, 113 Stat. 1752; Pub. L. 109–59, title I, § 1105(a)–(e), Aug. 10, 2005, 119 Stat. 1165, 1166.)

REFERENCES IN TEXT

Section 1102(h) of the SAFETEA–LU, referred to in subsec. (a)(2), is section 1102(h) of Pub. L. 109–59, which is set out as a note under section 104 of this title.

The SAFETEA–LU, referred to in subsecs. (a)(2) and (b)(1)(A), is Pub. L. 109–59, Aug. 10, 2005, 119 Stat. 1144, also known as the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. Title VIII of the Act amended sections 900 and 901 of Title 2, The Congress, and enacted provisions set out as a note under section 901 of Title 2. For complete classification of this Act to the Code, see Short Title of 2005 Amendments note set out under section 101 of this title and Tables.

Title III of Public Law 105–178, referred to in subsec. (f), is title III of Pub. L. 105–178, June 9, 1998, 112 Stat. 338, as amended, known as the Federal Transit Act of 1998. Sections 3037 and 3038 of title III of Pub. L. 105–178 are set out as notes under sections 5309 and 5310, respectively, of Title 49, Transportation. For complete classification of title III to the Code, see Short Title of 1998 Amendment note set out under section 5101 of Title 49 and Tables.

CODIFICATION

Another section 110 was renumbered section 126 of this title.

PRIOR PROVISIONS

A prior section 110, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 894, related to project agreements, prior to repeal by Pub. L. 105–178, title I, § 1105(a), June 9, 1998, 112 Stat. 130.

AMENDMENTS

2005—Subsec. (a)(1). Pub. L. 109–59, § 1105(a), substituted "2007" for "2000" and inserted "and the succeeding fiscal year" after "allocate for such fiscal year".

Subsec. (a)(2). Pub. L. 109–59, § 1105(b), substituted "2007" for "2000" and "October 15 of such" for "October 1 of the succeeding", inserted "for such fiscal year and the succeeding fiscal year" after "Account)", and inserted at end "No reduction under this paragraph and no reduction under section 1102(h), and no reduction under title VIII or any amendment made by title VIII, of the SAFETEA–LU shall be made for a fiscal year if, as of October 1 of such fiscal year the balance in the Highway Trust Fund (other than the Mass Transit Account) exceeds $6,000,000,000."

Subsec. (b)(1)(A). Pub. L. 109–59, § 1105(c), (e), struck out "for" before "Federal-aid highway" and substituted "equity bonus" for "minimum guarantee" and "SAFETEA–LU" for "Transportation Equity Act for the 21st Century".

Subsec. (c). Pub. L. 109–59, § 1105(d), inserted "the highway safety improvement program," after "the surface transportation program,".

1999—Subsec. (a)(2). Pub. L. 106–159, § 102(a)(2)(A), inserted "and the motor carrier safety grant program" after "relief)".

Subsec. (b)(1)(A). Pub. L. 106–159, § 102(a)(2)(B), inserted "and the motor carrier safety grant program" after "program)", substituted "title," for "title and", and inserted ", and subchapter I of chapter 311 of title 49" after "21st Century".

Subsecs. (e) to (g). Pub. L. 106–113, which directed amendment of section 110 by adding subsecs. (e) to (g) at the end, was executed to this section to reflect the probable intent of Congress. See Codification note above.

1998—Subsec. (a). Pub. L. 105–178, § 1105(c)(1), as added by Pub. L. 105–206, § 9002(e), substituted "In general" for "Determination of amount" in heading and amended text of subsec. (a) generally. Prior to amendment, text read as follows: "On October 15 of fiscal year 1999, and each fiscal year thereafter, the Secretary shall allocate an amount of funds equal to the amount determined pursuant to section 251(b)(1)(B)(I)(cc) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(B)(I)(cc))."

Subsec. (b)(2), (4). Pub. L. 105–178, § 1105(c)(2), as added by Pub. L. 105–206, § 9002(e), substituted "subsection (a)(1)" for "subsection (a)".

Subsec. (c). Pub. L. 105–178, § 1105(c)(3), as added by Pub. L. 105–206, § 9002(e), substituted "the Interstate and National Highway System program" for "the Interstate Maintenance program, the National Highway System program".

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of this title.

SPECIAL RULE

Pub. L. 109–59, title I, § 1105(f), Aug. 10, 2005, 119 Stat. 1166, provided that: "If the amount available pursuant

to section 110 of title 23, United States Code, for fiscal year 2007 is greater than zero, the Secretary [of Transportation] shall—

''(1) determine the total amount necessary to increase each State's rate of return (as determined under section 105(b)(1)(A) of title 23, United States Code) to 92 percent, excluding amounts provided under this paragraph;

''(2) allocate to each State the lesser of—

''(A) the amount computed for that State under paragraph (1); or

''(B) an amount determined by multiplying the total amount calculated under section 110 of title 23, United States Code, for fiscal year 2007 by the ratio that—

''(i) the amount determined for such State under paragraph (1); bears to

''(ii) the total amount computed for all States in paragraph (1); and

''(3) allocate amounts remaining in excess of the amounts allocated in paragraph (2) to all States in accordance with section 110 of title 23, United States Code.''

§111. Agreements relating to use of and access to rights-of-way—Interstate System

(a) IN GENERAL.—All agreements between the Secretary and the State transportation department for the construction of projects on the Interstate System shall contain a clause providing that the State will not add any points of access to, or exit from, the project in addition to those approved by the Secretary in the plans for such project, without the prior approval of the Secretary. Such agreements shall also contain a clause providing that the State will not permit automotive service stations or other commercial establishments for serving motor vehicle users to be constructed or located on the rights-of-way of the Interstate System. Such agreements may, however, authorize a State or political subdivision thereof to use or permit the use of the airspace above and below the established grade line of the highway pavement for such purposes as will not impair the full use and safety of the highway, as will not require or permit vehicular access to such space directly from such established grade line of the highway, or otherwise interfere in any way with the free flow of traffic on the Interstate System. Nothing in this section, or in any agreement entered into under this section, shall require the discontinuance, obstruction, or removal of any establishment for serving motor vehicle users on any highway which has been, or is hereafter, designated as a highway or route on the Interstate System (1) if such establishment (A) was in existence before January 1, 1960, (B) is owned by a State, and (C) is operated through concessionaries or otherwise, and (2) if all access to, and exits from, such establishment conform to the standards established for such a highway under this title.

(b) VENDING MACHINES.—Notwithstanding subsection (a), any State may permit the placement of vending machines in rest and recreation areas, and in safety rest areas, constructed or located on rights-of-way of the Interstate System in such State. Such vending machines may only dispense such food, drink, and other articles as the State transportation department determines are appropriate and desirable. Such vending machines may only be operated by the State. In permitting the placement of vending machines, the State shall give priority to vending machines which are operated through the State licensing agency designated pursuant to section 2(a)(5) of the Act of June 20, 1936, commonly known as the ''Randolph-Sheppard Act'' (20 U.S.C. 107a(a)(5)). The costs of installation, operation, and maintenance of vending machines shall not be eligible for Federal assistance under this title.

(c) MOTORIST CALL BOXES.—

(1) IN GENERAL.—Notwithstanding subsection (a), a State may permit the placement of motorist call boxes on rights-of-way of the National Highway System. Such motorist call boxes may include the identification and sponsorship logos of such call boxes.

(2) SPONSORSHIP LOGOS.—

(A) APPROVAL BY STATE AND LOCAL AGENCIES.—All call box installations displaying sponsorship logos under this subsection shall be approved by the highway agencies having jurisdiction of the highway on which they are located.

(B) SIZE ON BOX.—A sponsorship logo may be placed on the call box in a dimension not to exceed the size of the call box or a total dimension in excess of 12 inches by 18 inches.

(C) SIZE ON IDENTIFICATION SIGN.—Sponsorship logos in a dimension not to exceed 12 inches by 30 inches may be displayed on a call box identification sign affixed to the call box post.

(D) SPACING OF SIGNS.—Sponsorship logos affixed to an identification sign on a call box post may be located on the rights-of-way at intervals not more frequently than 1 per every 5 miles.

(E) DISTRIBUTION THROUGHOUT STATE.—Within a State, at least 20 percent of the call boxes displaying sponsorship logos shall be located on highways outside of urbanized areas with a population greater than 50,000.

(3) NONSAFETY HAZARDS.—The call boxes and their location, posts, foundations, and mountings shall be consistent with requirements of the Manual on Uniform Traffic Control Devices or any requirements deemed necessary by the Secretary to assure that the call boxes shall not be a safety hazard to motorists.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 895; Pub. L. 87–61, title I, §104(a), June 29, 1961, 75 Stat. 122; Pub. L. 95–599, title I, §114, Nov. 6, 1978, 92 Stat. 2697; Pub. L. 100–17, title I, §110(a), Apr. 2, 1987, 101 Stat. 146; Pub. L. 104–59, title III, §306, Nov. 28, 1995, 109 Stat. 580; Pub. L. 105–178, title I, §1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 193; Pub. L. 109–59, title I, §1412, Aug. 10, 2005, 119 Stat. 1234; Pub. L. 110–244, title I, §104, June 6, 2008, 122 Stat. 1578.)

AMENDMENTS

2008—Subsec. (d). Pub. L. 110–244 struck out subsec. (d) which related to idling reduction facilities in rights-of-way of Interstate System.

2005—Subsec. (d). Pub. L. 109–59 added subsec. (d).

1998—Subsecs. (a), (b). Pub. L. 105–178 substituted ''State transportation department'' for ''State highway department''.

1995—Subsec. (c). Pub. L. 104–59 added subsec. (c).

1987—Pub. L. 100–17 designated existing provision as subsec. (a), inserted heading for subsec. (a), and added subsec. (b).

1978—Pub. L. 95–599 inserted provision listing situations which would not require the discontinuance, obstruction, or removal of any establishment for serving motor vehicle users.

1961—Pub. L. 87–61 substituted ''to use or permit the use of the airspace above and below the established grade line of the highway pavement for such purposes as will not impair the full use and safety of the highway, as will not require or permit vehicular access to such space directly from such established grade line of the highway, or otherwise interfere'' for ''to use the airspace above and below the established grade line of the highway pavement for the parking of motor vehicles provided such use does not interfere''.

INTERSTATE OASIS PROGRAM

Pub. L. 109–59, title I, § 1310, Aug. 10, 2005, 119 Stat. 1219, provided that:

''(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section [Aug. 10, 2005], in consultation with the States and other interested parties, the Secretary [of Transportation] shall—

''(1) establish an interstate oasis program; and

''(2) after providing an opportunity for public comment, develop standards for designating, as an interstate oasis, a facility that—

''(A) offers—

''(i) products and services to the public;

''(ii) 24-hour access to restrooms; and

''(iii) parking for automobiles and heavy trucks; and

''(B) meets other standards established by the Secretary.

''(b) STANDARDS FOR DESIGNATION.—The standards for designation under subsection (a) shall include standards relating to—

''(1) the appearance of a facility; and

''(2) the proximity of the facility to the Dwight D. Eisenhower National System of Interstate and Defense Highways.

''(c) ELIGIBILITY FOR DESIGNATION.—If a State (as defined in section 101(a) of title 23, United States Code) elects to participate in the interstate oasis program, any facility meeting the standards established by the Secretary [of Transportation] shall be eligible for designation under this section.

''(d) LOGO.—The Secretary [of Transportation] shall design a logo to be displayed by a facility designated under this section.''

VENDING MACHINES; PLACEMENT IN REST, RECREATION, AND SAFETY REST AREAS; STATE OPERATION OF MACHINES

Pub. L. 97–424, title I, § 111, Jan. 6, 1983, 96 Stat. 2106, provided that notwithstanding section 111 of this title before Oct. 1, 1983, any State could permit placement of vending machines in rest and recreation areas and in safety rest areas constructed or located on rights-of-way of National System of Interstate and Defense Highways [now Dwight D. Eisenhower System of Interstate and Defense Highways] in such State. Such vending machines could only dispense such food, drink, and other articles as the State highway department determined were appropriate and desirable. Such vending machines could only be operated by the State. In permitting the placement of vending machines under this section, the State had to give priority to vending machines which were operated through the State licensing agency designated pursuant to section 2(a)(5) of the Act of June 20, 1936, known as the Randolph-Sheppard Act (20 U.S.C. 107a(a)(5)).

DEMONSTRATION PROJECT FOR VENDING MACHINES IN REST AND RECREATION AREAS

Section 153 of Pub. L. 95–599 authorized Secretary of Transportation to implement a demonstration project respecting placement of vending machines in rest and recreation areas and to report not later than two years after Nov. 6, 1978, on results of such project.

REVISION OF AGREEMENTS RELATING TO UTILIZATION OF SPACE ON RIGHTS-OF-WAY

Section 104(b) of Pub. L. 87–61 authorized Secretary of Commerce [now Transportation], on application, to revise any agreement made prior to June 29, 1961, to extent that such agreement relates to utilization of space on rights-of-way on National System of Interstate and Defense Highways [now Dwight D. Eisenhower System of Interstate and Defense Highways] to conform to section 111 of this title as amended by subsection (a).

§ 112. Letting of contracts

(a) In all cases where the construction is to be performed by the State transportation department or under its supervision, a request for submission of bids shall be made by advertisement unless some other method is approved by the Secretary. The Secretary shall require such plans and specifications and such methods of bidding as shall be effective in securing competition.

(b) BIDDING REQUIREMENTS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), construction of each project, subject to the provisions of subsection (a) of this section, shall be performed by contract awarded by competitive bidding, unless the State transportation department demonstrates, to the satisfaction of the Secretary, that some other method is more cost effective or that an emergency exists. Contracts for the construction of each project shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting established criteria of responsibility. No requirement or obligation shall be imposed as a condition precedent to the award of a contract to such bidder for a project, or to the Secretary's concurrence in the award of a contract to such bidder, unless such requirement or obligation is otherwise lawful and is specifically set forth in the advertised specifications.

(2) CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.—

(A) GENERAL RULE.—Subject to paragraph (3), each contract for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services with respect to a project subject to the provisions of subsection (a) of this section shall be awarded in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40.

(B) PERFORMANCE AND AUDITS.—Any contract or subcontract awarded in accordance with subparagraph (A), whether funded in whole or in part with Federal-aid highway funds, shall be performed and audited in compliance with cost principles contained in the Federal Acquisition Regulations of part 31 of title 48, Code of Federal Regulations.

(C) INDIRECT COST RATES.—Instead of performing its own audits, a recipient of funds under a contract or subcontract awarded in accordance with subparagraph (A) shall accept indirect cost rates established in accordance with the Federal Acquisition Regulations for 1-year applicable accounting periods by a cognizant Federal or State govern-

ment agency, if such rates are not currently under dispute.

(D) APPLICATION OF RATES.—Once a firm's indirect cost rates are accepted under this paragraph, the recipient of the funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment and shall not be limited by administrative or de facto ceilings of any kind.

(E) PRENOTIFICATION; CONFIDENTIALITY OF DATA.—A recipient of funds requesting or using the cost and rate data described in subparagraph (D) shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part, to another firm or to any government agency which is not part of the group of agencies sharing cost data under this paragraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

(F)(F)[1] Subparagraphs (B), (C), (D) and (E) herein shall not apply to the States of West Virginia or Minnesota.

(3) DESIGN-BUILD CONTRACTING.—

(A) IN GENERAL.—A State transportation department or local transportation agency may award a design-build contract for a qualified project described in subparagraph (C) using any procurement process permitted by applicable State and local law.

(B) LIMITATION ON FINAL DESIGN.—Final design under a design-build contract referred to in subparagraph (A) shall not commence before compliance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(C) QUALIFIED PROJECTS.—A qualified project referred to in subparagraph (A) is a project under this chapter (including intermodal projects) for which the Secretary has approved the use of design-build contracting under criteria specified in regulations issued by the Secretary.

(D) REGULATORY PROCESS.—Not later than 90 days after the date of enactment of the SAFETEA–LU, the Secretary shall issue revised regulations under section 1307(c) of the Transportation Equity Act for 21st Century (23 U.S.C. 112 note; 112 Stat. 230) that—

(i) do not preclude a State transportation department or local transportation agency, prior to compliance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), from—

(I) issuing requests for proposals;

(II) proceeding with awards of design-build contracts; or

(III) issuing notices to proceed with preliminary design work under design-build contracts;

(ii) require that the State transportation department or local transportation agency receive concurrence from the Secretary before carrying out an activity under clause (i); and

(iii) preclude the design-build contractor from proceeding with final design or construction of any permanent improvement prior to completion of the process under such section 102.

(E) DESIGN-BUILD CONTRACT DEFINED.—In this paragraph, the term ''design-build contract'' means an agreement that provides for design and construction of a project by a contractor, regardless of whether the agreement is in the form of a design-build contract, a franchise agreement, or any other form of contract approved by the Secretary.

(c) The Secretary shall require as a condition precedent to his approval of each contract awarded by competitive bidding pursuant to subsection (b) of this section, and subject to the provisions of this section, a sworn statement, executed by, or on behalf of, the person, firm, association, or corporation to whom such contract is to be awarded, certifying that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with such contract.

(d) No contract awarded by competitive bidding pursuant to subsection (b) of this section, and subject to the provisions of this section, shall be entered into by any State transportation department or local subdivision of the State without compliance with the provisions of this section, and without the prior concurrence of the Secretary in the award thereof.

(e) STANDARDIZED CONTRACT CLAUSE CONCERNING SITE CONDITIONS.—

(1) GENERAL RULE.—The Secretary shall issue regulations establishing and requiring, for inclusion in each contract entered into with respect to any project approved under section 106 of this title a contract clause, developed in accordance with guidelines established by the Secretary, which equitably addresses each of the following:

(A) Site conditions.

(B) Suspensions of work ordered by the State (other than a suspension of work caused by the fault of the contractor or by weather).

(C) Material changes in the scope of work specified in the contract.

The guidelines established by the Secretary shall not require arbitration.

(2) LIMITATION ON APPLICABILITY.—

(A) STATE LAW.—Paragraph (1) shall apply in a State except to the extent that such State adopts or has adopted by statute a formal procedure for the development of a contract clause described in paragraph (1) or adopts or has adopted a statute which does not permit inclusion of such a contract clause.

(B) DESIGN-BUILD CONTRACTS.—Paragraph (1) shall not apply to any design-build contract approved under subsection (b)(3).

(f) SELECTION PROCESS.—A State may procure, under a single contract, the services of a consultant to prepare any environmental impact as-

[1] So in original.

sessments or analyses required for a project, including environmental impact statements, as well as subsequent engineering and design work on the project if the State conducts a review that assesses the objectivity of the environmental assessment, environmental analysis, or environmental impact statement prior to its submission to the Secretary.

(g) TEMPORARY TRAFFIC CONTROL DEVICES.—

(1) ISSUANCE OF REGULATIONS.—The Secretary, after consultation with appropriate Federal and State officials, shall issue regulations establishing the conditions for the appropriate use of, and expenditure of funds for, uniformed law enforcement officers, positive protective measures between workers and motorized traffic, and installation and maintenance of temporary traffic control devices during construction, utility, and maintenance operations.

(2) EFFECTS OF REGULATIONS.—Based on regulations issued under paragraph (1), a State shall—

(A) develop separate pay items for the use of uniformed law enforcement officers, positive protective measures between workers and motorized traffic, and installation and maintenance of temporary traffic control devices during construction, utility, and maintenance operations; and

(B) incorporate such pay items into contract provisions to be included in each contract entered into by the State with respect to a highway project to ensure compliance with section 109(e)(2).

(3) LIMITATION.—Nothing in the regulations shall prohibit a State from implementing standards that are more stringent than those required under the regulations.

(4) POSITIVE PROTECTIVE MEASURES DEFINED.—In this subsection, the term ''positive protective measures'' means temporary traffic barriers, crash cushions, and other strategies to avoid traffic accidents in work zones, including full road closures.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 895; Pub. L. 90–495, § 22(c), Aug. 23, 1968, 82 Stat. 827; Pub. L. 96–470, title I, § 112(b)(1), Oct. 19, 1980, 94 Stat. 2239; Pub. L. 97–424, title I, § 112, Jan. 6, 1983, 96 Stat. 2106; Pub. L. 100–17, title I, § 111, Apr. 2, 1987, 101 Stat. 147; Pub. L. 104–59, title III, § 307(a), Nov. 28, 1995, 109 Stat. 581; Pub. L. 105–178, title I, §§ 1205, 1212(a)(2)(A)(i), 1307(a), (b), June 9, 1998, 112 Stat. 184, 193, 229, 230; Pub. L. 107–217, § 3(e)(1), Aug. 21, 2002, 116 Stat. 1299; Pub. L. 109–59, title I, §§ 1110(b), 1503, Aug. 10, 2005, 119 Stat. 1170, 1238; Pub. L. 109–115, div. A, title I, § 174, Nov. 30, 2005, 119 Stat. 2426.)

REFERENCES IN TEXT

The date of enactment of the SAFETEA–LU, referred to in subsec. (b)(3)(D), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

Section 1307(c) of the Transportation Equity Act for 21st Century, referred to in subsec. (b)(3)(D), is section 1307(c) of Pub. L. 105–178, which is set out as a note below.

AMENDMENTS

2005—Subsec. (b)(2)(A). Pub. L. 109–115, § 174(1), substituted ''title 40'' for ''title 40 or equivalent State qualifications-based requirements''.

Subsec. (b)(2)(B) to (D). Pub. L. 109–115, § 174(2), (3), redesignated subpars. (C) to (E) as (B) to (D), respectively, and struck out heading and text of former subpar. (B). Text read as follows:

''(i) IN A COMPLYING STATE.—If, on the date of the enactment of this paragraph, the services described in subparagraph (A) may be awarded in a State in the manner described in subparagraph (A), subparagraph (A) shall apply in such State beginning on such date of enactment.

''(ii) IN A NONCOMPLYING STATE.—In the case of any other State, subparagraph (A) shall apply in such State beginning on the earlier of (I) August 1, 1989, or (II) the 10th day following the close of the 1st regular session of the legislature of a State which begins after the date of the enactment of this paragraph.''

Subsec. (b)(2)(E). Pub. L. 109–115, § 174(3), (4), redesignated subpar. (F) as (E) and substituted ''subparagraph (D)'' for ''subparagraph (E)''. Former subpar. (E) redesignated (D).

Subsec. (b)(2)(F). Pub. L. 109–115, § 174(5), which directed that subpar. (F) be amended by substituting ''(F) Subparagraphs (B), (C), (D) and (E) herein shall not apply to the States of West Virginia or Minnesota.'' for ''‘State Option’ and all that follows through the period'', was executed by making the substitution for ''STATE OPTION.—Subparagraphs (C), (D), (E), and (F) shall take effect 1 year after the date of the enactment of this subparagraph; except that if a State, during such 1-year period, adopts by statute an alternative process intended to promote engineering and design quality and ensure maximum competition by professional companies of all sizes providing engineering and design services, such subparagraphs shall not apply with respect to the State. If the Secretary determines that the legislature of the State did not convene and adjourn a full regular session during such 1-year period, the Secretary may extend such 1-year period until the adjournment of the next regular session of the legislature.'', to reflect the probable intent of Congress.

Pub. L. 109–115, § 174(3), redesignated subpar. (G) as (F). Former subpar. (F) redesignated (E).

Subsec. (b)(2)(G). Pub. L. 109–115, § 174(3), redesignated subpar. (G) as (F).

Subsec. (b)(3)(C) to (E). Pub. L. 109–59, § 1503, added subpars. (C) and (D), redesignated former subpar. (D) as (E), and struck out former subpar. (C), which described a qualified project as one for which the Secretary had approved the use of design-build contracting under criteria specified in regulations and for which total costs had been estimated to exceed specified amounts.

Subsecs. (f), (g). Pub. L. 109–59, § 1110(b), added subsec. (g), redesignated former subsec. (g) as (f), and struck out former subsec. (f) which read as follows: ''The provisions of this section shall not be applicable to contracts for projects on the Federal-aid secondary system in those States where the Secretary has discharged his responsibility pursuant to section 117 of this title, except where employees of a political subdivision of a State are working on a project outside of such political subdivision.''

2002—Subsec. (b)(2)(A). Pub. L. 107–217 substituted ''chapter 11 of title 40'' for ''title IX of the Federal Property and Administrative Services Act of 1949''.

1998—Subsec. (a). Pub. L. 105–178, § 1212(a)(2)(A)(i), substituted ''State transportation department'' for ''State highway department''.

Subsec. (b)(1). Pub. L. 105–178, § 1307(a)(1), substituted ''paragraphs (2) and (3)'' for ''paragraph (2)''.

Pub. L. 105–178, § 1212(a)(2)(A)(i), substituted ''State transportation department'' for ''State highway department''.

Subsec. (b)(2)(A). Pub. L. 105–178, § 1307(a)(2), substituted ''Subject to paragraph (3), each contract'' for ''Each contract''.

Subsec. (b)(2)(B)(i). Pub. L. 105–178, § 1205(a), struck out before period at end '', except to the extent that such State adopts by statute a formal procedure for the procurement of such services''.

Subsec. (b)(2)(B)(ii). Pub. L. 105–178, § 1205(a), struck out before period at end '', except to the extent that

such State adopts or has adopted by statute a formal procedure for the procurement of the services described in subparagraph (A)''.

Subsec. (b)(3). Pub. L. 105–178, §1307(a)(3), added par. (3).

Subsec. (d). Pub. L. 105–178, §1212(a)(2)(A)(i), substituted ''State transportation department'' for ''State highway department''.

Subsec. (e)(2). Pub. L. 105–178, §1307(b), designated existing provisions as subpar. (A), inserted heading, realigned margins, and added subpar. (B).

Subsec. (g). Pub. L. 105–178, §1205(b), added subsec. (g).

1995—Subsec. (b)(2)(C) to (G). Pub. L. 104–59 added subpars. (C) to (G).

1987—Subsec. (b). Pub. L. 100–17, §111(a), (b), (d), inserted subsec. heading, designated existing provisions as par. (1), inserted par. (1) heading, substituted ''Subject to paragraph (2), construction'' for ''Construction'' and inserted ''or that an emergency exists'', added par. (2), and realigned margins.

Subsecs. (e), (f). Pub. L. 100–17, §111(c), added subsec. (e) and redesignated former subsec. (e) as (f).

1983—Subsec. (b). Pub. L. 97–424, §112(1), substituted ''unless the State highway department demonstrates, to the satisfaction of the Secretary, that some other method is more cost effective'' for ''unless the Secretary shall affirmatively find that, under the circumstances relating to such project, some other method is in the public interest'' after ''by competitive bidding,''.

Subsec. (e). Pub. L. 97–424, §112(2), inserted exception relating to a situation where employees of a political subdivision of a State are working on a project outside of such political subdivision.

1980—Subsec. (b). Pub. L. 96–470 struck out provision that all findings by the Secretary that a method other than competitive bidding is in the public interest be reported in writing to the Committees on Public Works of the Senate and the House of Representatives.

1968—Subsec. (b). Pub. L. 90–495 required that contracts for the construction of each project be awarded only on the basis of the lowest responsive bid by a bidder meeting established criteria of responsibility and required that, to be imposed as a condition precedent, requirements and obligations have been specifically set forth in the advertised specifications.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–178, title I, §1307(e), June 9, 1998, 112 Stat. 231, provided that:

''(1) IN GENERAL.—The amendments made by this section [amending this section] take effect 3 years after the date of enactment of this Act [June 9, 1998].

''(2) TRANSITION PROVISION.—

''(A) IN GENERAL.—During the period before issuance of the regulations under subsection (c) [set out below], the Secretary may approve, in accordance with an experimental program described in subsection (d) [set out below], design-build contracts to be awarded using any process permitted by applicable State and local law; except that final design under any such contract shall not commence before compliance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

''(B) PREVIOUSLY AWARDED CONTRACTS.—The Secretary may approve design-build contracts awarded before the date of enactment of this Act.

''(C) DESIGN-BUILD CONTRACT DEFINED.—In this paragraph, the term 'design-build contract' means an agreement that provides for design and construction of a project by a contractor, regardless of whether the agreement is in the form of a design-build contract, a franchise agreement, or any other form of contract approved by the Secretary.''

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–495 effective Aug. 23, 1968, see section 37 of Pub. L. 90–495, set out as a note under section 101 of this title.

REGULATIONS

Pub. L. 105–178, title I, §1307(c), June 9, 1998, 112 Stat. 230, provided that:

''(1) IN GENERAL.—Not later than the effective date specified in subsection (e) [see Effective Date of 1998 Amendment note above], after consultation with the American Association of State Highway and Transportation Officials and representatives from affected industries, the Secretary shall issue regulations to carry out the amendments made by this section [amending this section].

''(2) CONTENTS.—The regulations shall—

''(A) identify the criteria to be used by the Secretary in approving the use by a State transportation department or local transportation agency of design-build contracting; and

''(B) establish the procedures to be followed by a State transportation department or local transportation agency for obtaining the Secretary's approval of the use of design-build contracting by the department or agency.''

EFFECT ON EXPERIMENTAL PROGRAM

Pub. L. 105–178, title I, §1307(d), June 9, 1998, 112 Stat. 231, provided that: ''Nothing in this section [amending this section and enacting provisions set out as notes under this section] or the amendments made by this section affects the authority to carry out, or any project carried out under, any experimental program concerning design-build contracting that is being carried out by the Secretary as of the date of enactment of this Act [June 9, 1998].''

REPORT TO CONGRESS

Pub. L. 105–178, title I, §1307(f), June 9, 1998, 112 Stat. 231, provided that:

''(1) IN GENERAL.—Not later than 5 years after the date of enactment of this Act [June 9, 1998], the Secretary shall submit to Congress a report on the effectiveness of design-build contracting procedures.

''(2) CONTENTS.—The report shall contain—

''(A) an assessment of the effect of design-build contracting on project quality, project cost, and timeliness of project delivery;

''(B) recommendations on the appropriate level of design for design-build procurements;

''(C) an assessment of the impact of design-build contracting on small businesses;

''(D) assessment of the subjectivity used in design-build contracting; and

''(E) such recommendations concerning design-build contracting procedures as the Secretary determines to be appropriate.''

PRIVATE SECTOR INVOLVEMENT PROGRAM

Pub. L. 102–240, title I, §1060, Dec. 18, 1991, 105 Stat. 2003, provided that:

''(a) ESTABLISHMENT.—The Secretary shall establish a private sector involvement program to encourage States to contract with private firms for engineering and design services in carrying out Federal-aid highway projects when it would be cost effective.

''(b) GRANTS TO STATES.—

''(1) IN GENERAL.—In conducting the program under this section, the Secretary may make grants in each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 to not less than 3 States which the Secretary determines have implemented in the fiscal year preceding the fiscal year of the grant the most effective programs for increasing the percentage of funds expended for contracting with private firms (including small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals) for engineering and design services in carrying out Federal-aid highway projects.

''(2) USE OF GRANTS.—A grant received by a State under this subsection may be used by the State only for awarding contracts for engineering and design services to carry out projects and activities for which Federal funds may be obligated under title 23, United States Code.

''(3) FUNDING.—There are authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 1992 through 1997. Such sums shall remain available until expended.

''(c) REPORT BY FHWA.—Not later than 120 days after the date of the enactment of this Act [Dec. 18, 1991], the Administrator of the Federal Highway Administration shall submit to the Secretary a report on the amount of funds expended by each State in fiscal years 1980 through 1990 on contracts with private sector engineering and design firms in carrying out Federal-aid highway projects. The Secretary shall use information in the report to evaluate State engineering and design programs for the purpose of awarding grants under subsection (b).

''(d) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of this Act [Dec. 18, 1991], the Secretary shall transmit to Congress a report on implementation of the program established under this section.

''(e) ENGINEERING AND DESIGN SERVICES DEFINED.—The term 'engineering and design services' means any category of service described in section 112(b) of title 23, United States Code.

''(f) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act [Dec. 18, 1991], the Secretary shall issue regulations to carry out this section.''

PILOT PROGRAM FOR UNIFORM AUDIT PROCEDURES

Pub. L. 102–240, title I, § 1092, Dec. 18, 1991, 105 Stat. 2024, directed Secretary to establish pilot program to include no more than 10 States under which any contract or subcontract awarded in accordance with subsec. (b)(2)(A) of this section was to be performed and audited in compliance with cost principles contained in Federal acquisition regulations of part 41 of title 48 of Code of Federal Regulations, provided for indirect cost rates in lieu of performing audits, and required each State participating in pilot program to report to Secretary not later than 3 years after Dec. 18, 1991, on results of program, prior to repeal by Pub. L. 104–59, title III, § 307(b), Nov. 28, 1995, 109 Stat. 582. See subsec. (b)(2)(C) to (F) of this section.

EVALUATION OF STATE PROCUREMENT PRACTICES

Pub. L. 102–240, title VI, § 6014, Dec. 18, 1991, 105 Stat. 2181, directed Secretary to conduct a study to evaluate whether or not current procurement practices of State departments and agencies were adequate to ensure that highway and transit systems were designed, constructed, and maintained so as to achieve a high quality for such systems at the lowest overall cost and, not later than 2 years after Dec. 18, 1991, to transmit to Congress a report on the results of the study, together with an assessment of the need for establishing a national policy on transportation quality assurance and recommendations for appropriate legislative and administrative actions.

§ 113. Prevailing rate of wage

(a) The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on the construction work performed on highway projects on the Federal-aid highways authorized under the highway laws providing for the expenditure of Federal funds upon the Federal-aid systems, shall be paid wages at rates not less than those prevailing on the same type of work on similar construction in the immediate locality as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40.

(b) In carrying out the duties of subsection (a) of this section, the Secretary of Labor shall consult with the highway department of the State in which a project on any of the Federal-aid systems is to be performed. After giving due regard to the information thus obtained, he shall make a predetermination of the minimum wages to be paid laborers and mechanics in accordance with the provisions of subsection (a) of this section which shall be set out in each project advertisement for bids and in each bid proposal form and shall be made a part of the contract covering the project.

(c) The provisions of the section shall not be applicable to employment pursuant to apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting equal employment opportunity in connection with Federal-aid highway construction programs.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 895; Pub. L. 90–495, § 12(a), Aug. 23, 1968, 82 Stat. 821; Pub. L. 97–424, title I, § 149, Jan. 6, 1983, 96 Stat. 2131; Pub. L. 100–17, title I, § 133(b)(5), Apr. 2, 1987, 101 Stat. 171; Pub. L. 102–240, title I, § 1006(g)(2), Dec. 18, 1991, 105 Stat. 1927; Pub. L. 107–217, § 3(e)(2), Aug. 21, 2002, 116 Stat. 1299.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–217 substituted ''sections 3141–3144, 3146, and 3147 of title 40'' for ''the Act of March 3, 1931, known as the Davis-Bacon Act (40 U.S.C. 276a)''.

1991—Subsec. (a). Pub. L. 102–240, which directed substitution of ''highways'' for ''systems, the primary and secondary, as well as their extension in urban areas, and the Interstate system,'' was executed by making the substitution for the quoted words which in the original contained the word ''extensions'' rather than ''extension'', to reflect the probable intent of Congress.

1987—Subsec. (a). Pub. L. 100–17 substituted ''March 3, 1931'' for ''August 30, 1935'' and ''276a'' for ''267a''.

1983—Subsec. (a). Pub. L. 97–424 struck out ''initial'' after ''subcontractors on the''.

1968—Subsec. (a). Pub. L. 90–495 extended wage rate provisions to the construction of all Federal-aid highway projects by amending provisions limiting them only to the Interstate System.

Subsec. (b). Pub. L. 90–495 substituted ''any of the Federal-aid systems'' for ''the Interstate System''.

Subsec. (c). Pub. L. 90–495 added subsec. (c).

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–495 effective Aug. 23, 1968, see section 37 of Pub. L. 90–495, set out as a note under section 101 of this title.

§ 114. Construction

(a) CONSTRUCTION WORK IN GENERAL.—The construction of any Federal-aid highway or a portion of a Federal-aid highway shall be undertaken by the respective State transportation departments or under their direct supervision. The Secretary shall have the right to conduct such inspections and take such corrective action as the Secretary determines to be appropriate. The construction work and labor in each State shall be performed under the direct supervision of the

State transportation department and in accordance with the laws of that State and applicable Federal laws. Construction may be begun as soon as funds are available for expenditure pursuant to subsection (a) of section 118 of this title. After July 1, 1973, the State transportation department shall not erect on any project where actual construction is in progress and visible to highway users any informational signs other than official traffic control devices conforming with standards developed by the Secretary of Transportation.

(b) CONVICT LABOR AND CONVICT PRODUCED MATERIALS.—

(1) LIMITATION ON CONVICT LABOR.—Convict labor shall not be used in construction of highways or portions of highways located on a Federal-aid system unless it is labor performed by convicts who are on parole, supervised release, or probation.

(2) LIMITATION ON CONVICT PRODUCED MATERIALS.—Materials produced after July 1, 1991, by convict labor may only be used in such construction—

(A) if such materials are produced by convicts who are on parole, supervised release, or probation from a prison; or

(B) if such materials are produced by convicts in a qualified prison facility and the amount of such materials produced in such facility for use in such construction during any 12-month period does not exceed the amount of such materials produced in such facility for use in such construction during the 12-month period ending July 1, 1987.

(3) QUALIFIED PRISON FACILITY DEFINED.—As used in this subsection, ''qualified prison facility'' means any prison facility in which convicts, during the 12-month period ending July 1, 1987, produced materials for use in construction of highways or portions of highways located on a Federal-aid system.

(c) CONSTRUCTION WORK IN ALASKA.—

(1) IN GENERAL.—The Secretary shall ensure that a worker who is employed on a remote project for the construction of a highway or portion of a highway located on a Federal-aid system in the State of Alaska and who is not a domiciled resident of the locality shall receive meals and lodging.

(2) LODGING.—The lodging under paragraph (1) shall be in accordance with section 1910.142 of title 29, Code of Federal Regulations (relating to temporary labor camp requirements).

(3) PER DIEM.—

(A) IN GENERAL.—Contractors are encouraged to use commercial facilities and lodges on remote projects, however, when such facilities are not available, per diem in lieu of room and lodging may be paid on remote Federal highway projects at a basic rate of $75.00 per day or part of a day the worker is employed on the project. Where the contractor provides or furnishes room and lodging or pays a per diem, the cost of the amount shall not be considered a part of wages and shall be excluded from the calculation of wages.

(B) SECRETARY OF LABOR.—Such per diem rate shall be adopted by the Secretary of Labor for all applicable remote Federal highway projects in Alaska.

(C) EXCEPTION.—Per diem shall not be allowed on any of the following remote projects for the construction of a highway or portion of a highway located on a Federal-aid system:

(i) West of Livengood on the Elliot Highway.

(ii) Mile 0 on the Dalton Highway to the North Slope of Alaska; north of Mile 20 on the Taylor Highway.

(iii) East of Chicken on the Top of the World Highway and south of Tetlin Junction to the Alaska Canadian border.

(4) DEFINITIONS.—In this subsection, the following definitions apply:

(A) REMOTE.—The term ''remote'', as used with respect to a project, means that the project is 65 road miles or more from the international airport in Fairbanks, Anchorage, or Juneau, Alaska, as the case may be, or is inaccessible by road in a 2-wheel drive vehicle.

(B) RESIDENT.—The term ''resident'', as used with respect to a project, means a person living within 65 road miles of the midpoint of the project for at least 12 consecutive months prior to the award of the project.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 896; Pub. L. 86–657, §8(f), July 14, 1960, 74 Stat. 525; Pub. L. 93–87, title I, §115, Aug. 13, 1973, 87 Stat. 258; Pub. L. 97–424, title I, §148, Jan. 6, 1983, 96 Stat. 2131; Pub. L. 98–473, title II, §226, Oct. 12, 1984, 98 Stat. 2030; Pub. L. 100–17, title I, §112(a), (b)(1), Apr. 2, 1987, 101 Stat. 148; Pub. L. 102–240, title I, §1019, Dec. 18, 1991, 105 Stat. 1948; Pub. L. 105–178, title I, §1212(a)(2)(A), June 9, 1998, 112 Stat. 193; Pub. L. 109–59, title I, §§1409(d), 1904(b), Aug. 10, 2005, 119 Stat. 1232, 1467.)

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–59, §1904(b), substituted ''Federal-aid highway or a portion of a Federal-aid highway'' for ''highways or portions of highways located on a Federal-aid system'' and ''The Secretary shall have the right to conduct such inspections and take such corrective action as the Secretary determines to be appropriate.'' for ''Except as provided in section 117 of this title, such construction shall be subject to the inspection and approval of the Secretary.''

Subsec. (c). Pub. L. 109–59, §1409(d), added subsec. (c).

1998—Subsec. (a). Pub. L. 105–178 substituted ''State transportation department'' for ''State highway department'' in two places and ''State transportation departments'' for ''State highway departments''.

1991—Subsec. (b)(2). Pub. L. 102–240, inserted ''after July 1, 1991,'' after ''Materials produced'' in introductory provisions.

1987—Subsec. (a). Pub. L. 100–17, §112(b)(1), inserted heading.

Subsec. (b). Pub. L. 100–17, §112(b)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Convict labor or materials produced by convict labor shall not be used in such construction unless it is labor performed by convicts who are on parole or probation.''

1984—Subsec. (b). Pub. L. 98–473 which directed the insertion of '', supervised release,'' after ''parole'' effective Nov. 1, 1987, was not executed, because of intervening general amendment of subsec. (b) by Pub. L. 100–17, §112(a), which contained '', supervised release,'' after ''parole'' wherever appearing.

1983—Subsec. (b). Pub. L. 97–424 inserted ''or materials produced by convict labor'' after ''Convict labor''.

1973—Subsec. (a). Pub. L. 93–87 amended last sentence generally. Prior to amendment, last sentence read as follows: ''On any project where actual construction is in progress and visible to highway users, the State highway department shall erect such informational sign or signs as prescribed by the Secretary, identifying the project and the respective amounts contributed therefor by the State and Federal Governments.''

1960—Subsec. (a). Pub. L. 86–657 required State highway departments to erect, on any project where actual construction is in progress and visible to highway users, such informational sign or signs as prescribed by the Secretary, identifying the project and the respective contributions therefor by the State and Federal Governments.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of this amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure.

HIGHWAYS FOR LIFE PILOT PROGRAM

Pub. L. 109–59, title I, § 1502, Aug. 10, 2005, 119 Stat. 1236, provided that:

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary [of Transportation] shall establish and implement a pilot program to be known as the 'Highways for LIFE Pilot Program'.

''(2) PURPOSE.—The purpose of the pilot program shall be to advance longer-lasting highways using innovative technologies and practices to accomplish the fast construction of efficient and safe highways and bridges.

''(3) OBJECTIVES.—Under the pilot program, the Secretary shall provide leadership and incentives to demonstrate and promote state-of-the-art technologies, elevated performance standards, and new business practices in the highway construction process that result in improved safety, faster construction, reduced congestion from construction, and improved quality and user satisfaction.

''(b) PROJECTS.—

''(1) APPLICATIONS.—To be eligible to participate in the pilot program, a State shall submit to the Secretary [of Transportation] an application that is in such form and contains such information as the Secretary requires. Each application shall contain a description of proposed projects to be carried by the State under the pilot program.

''(2) ELIGIBILITY.—A proposed project shall be eligible for assistance under the pilot program if the project—

''(A) constructs, reconstructs, or rehabilitates a route or connection on a Federal-aid highway eligible for assistance under chapter 1 of title 23, United States Code;

''(B) uses innovative technologies, manufacturing processes, financing, or contracting methods that improve safety, reduce congestion due to construction, and improve quality; and

''(C) meets additional criteria as determined by the Secretary.

''(3) PROJECT PROPOSAL.—A project proposal submitted under paragraph (1) shall contain—

''(A) an identification and description of the projects to be delivered;

''(B) a description of how the projects will result in improved safety, faster construction, reduced congestion due to construction, user satisfaction, and improved quality;

''(C) a description of the innovative technologies, manufacturing processes, financing, and contracting methods that will be used for the proposed projects; and

''(D) such other information as the Secretary may require.

''(4) SELECTION CRITERIA.—In selecting projects for approval under this section, the Secretary shall ensure that the projects provide an evaluation of a broad range of technologies in a wide variety of project types and shall give priority to the projects that—

''(A) address achieving the Highways for LIFE performance standards for quality, safety, and speed of construction;

''(B) deliver and deploy innovative technologies, manufacturing processes, financing, contracting practices, and performance measures that will demonstrate substantial improvements in safety, congestion, quality, and cost-effectiveness;

''(C) include innovation that will lead to change in the administration of the State's transportation program to more quickly construct long-lasting, high-quality, cost-effective projects that improve safety and reduce congestion;

''(D) are or will be ready for construction within 1 year of approval of the project proposal; and

''(E) meet such other criteria as the Secretary determines appropriate.

''(5) FINANCIAL ASSISTANCE.—

''(A) FUNDS FOR HIGHWAYS FOR LIFE PROJECTS.—Out of amounts made available to carry out this section for a fiscal year, the Secretary may allocate to a State up to 20 percent, but not more than $5,000,000, of the total cost of a project approved under this section. Notwithstanding any other provision of law, funds allocated to a State under this subparagraph may be applied to the non-Federal share of the cost of construction of a project under title 23, United States Code.

''(B) USE OF APPORTIONED FUNDS.—A State may obligate not more than 10 percent of the amount apportioned to the State under one or more of paragraphs (1), (2), (3), and (4) of section 104(b) of title 23, United States Code, for a fiscal year for projects approved under this section.

''(C) INCREASED FEDERAL SHARE.—Notwithstanding sections 120 and 129 of title 23, United States Code, the Federal share payable on account of any project constructed with Federal funds allocated under this section, or apportioned under section 104(b) of such title, to a State under such title and approved under this section may amount to 100 percent of the cost of construction of such project.

''(D) LIMITATION ON STATUTORY CONSTRUCTION.—Except as provided in subparagraph (C), nothing in this subsection shall be construed as altering or otherwise affecting the applicability of the requirements of chapter 1 of title 23, United States Code (including requirements relating to the eligibility of a project for assistance under the program and the location of the project), to amounts apportioned to a State for a program under section 104(b) that are obligated by the State for projects approved under this subsection.

''(6) PROJECT SELECTIONS.—In the period of fiscal years 2005 through 2009, the Secretary, to the maximum extent possible, shall approve at least 1 project in each State for participation in the pilot program and for financial assistance under paragraph (5) if the State submits an application and the project meets the eligibility requirements and selection criteria under this subsection.

''(7) MAXIMUM NUMBER OF PROJECTS.—The maximum number of projects for which the Secretary may allocate funds under this subsection in a fiscal year is 15.

''(c) TECHNOLOGY PARTNERSHIPS.—

''(1) IN GENERAL.—The Secretary [of Transportation] may make grants or enter into cooperative agreements or other transactions to foster the development, improvement, and creation of innovative technologies and facilities to improve safety, enhance the speed of highway construction, and improve the quality and durability of highways.

''(2) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this subsection shall not exceed 80 percent.

''(d) TECHNOLOGY TRANSFER AND INFORMATION DISSEMINATION.—

''(1) IN GENERAL.—The Secretary [of Transportation] shall conduct a highways for life technology transfer program.

''(2) AVAILABILITY OF INFORMATION.—The Secretary shall ensure that the information and technology used, developed, or deployed under this subsection is made available to the transportation community and the public.

''(e) STAKEHOLDER INPUT AND INVOLVEMENT.—The Secretary [of Transportation] shall establish a process for stakeholder input and involvement in the development, implementation, and evaluation of the Highways for LIFE Pilot Program. The process may include participation by representatives of State departments of transportation and other interested persons.

''(f) PROJECT MONITORING AND EVALUATION.—The Secretary [of Transportation] shall monitor and evaluate the effectiveness of any activity carried out under this section.

''(g) CONTRACT AUTHORITY.—Except as otherwise provided in this section, funds authorized to be appropriated to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

''(h) STATE DEFINED.—In this section, the term 'State' has the meaning such term has in section 101(a) of title 23, United States Code.''

MATERIALS PRODUCED BY CONVICT LABOR

Pub. L. 101–162, title II, §202, Nov. 21, 1989, 103 Stat. 1002, provided that: ''During fiscal year 1990 and hereafter, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code.''

Similar fiscal year provisions were contained in the following appropriation acts:

Pub. L. 100–459, title II, §202, Oct. 1, 1988, 102 Stat. 2199.

Pub. L. 100–202, §101(a) [title II, §202], Dec. 22, 1987, 101 Stat. 1329, 1329–15.

Pub. L. 99–500, §101(b) [title II, §202], Oct. 18, 1986, 100 Stat. 1783–39, 1783–51, and Pub. L. 99–591, §101(b) [title II, §202], Oct. 30, 1986, 100 Stat. 3341–39, 3341–51.

Pub. L. 99–180, title II, §202, Dec. 13, 1985, 99 Stat. 1146.

Pub. L. 98–411, title II, §202, Aug. 30, 1984, 98 Stat. 1558, repealed by Pub. L. 100–17, title I, §112(b)(2), Apr. 2, 1987, 101 Stat. 149.

Pub. L. 98–166, title II, §202, Nov. 28, 1983, 97 Stat. 1085.

§115. Advance construction

(a) IN GENERAL.—The Secretary may authorize a State to proceed with a project authorized under this title—

(1) without the use of Federal funds; and

(2) in accordance with all procedures and requirements applicable to the project other than those procedures and requirements that limit the State to implementation of a project—

(A) with the aid of Federal funds previously apportioned or allocated to the State; or

(B) with obligation authority previously allocated to the State.

(b) OBLIGATION OF FEDERAL SHARE.—The Secretary, on the request of a State and execution of a project agreement, may obligate all or a portion of the Federal share of a project authorized to proceed under this section from any category of funds for which the project is eligible.

(c) INCLUSION IN TRANSPORTATION IMPROVEMENT PROGRAM.—The Secretary may approve an application for a project under this section only if the project is included in the transportation improvement program of the State developed under section 135(f).

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 896; Pub. L. 90–495, §25(a), (b), Aug. 23, 1968, 82 Stat. 828, 829; Pub. L. 93–643, §111, Jan. 4, 1975, 88 Stat. 2285; Pub. L. 96–106, §4, Nov. 9, 1979, 93 Stat. 797; Pub. L. 97–424, title I, §113, Jan. 6, 1983, 96 Stat. 2106; Pub. L. 100–17, title I, §113(a)–(d)(1), Apr. 2, 1987, 101 Stat. 149, 150; Pub. L. 102–302, §103, June 22, 1992, 106 Stat. 252; Pub. L. 104–59, title III, §308, Nov. 28, 1995, 109 Stat. 582; Pub. L. 105–178, title I, §§1103(*l*)(3)(A), 1106(c)(1)(A), 1226(a), title V, §5119(d), June 9, 1998, 112 Stat. 126, 136, 452; Pub. L. 105–206, title IX, §9003(a), July 22, 1998, 112 Stat. 837; Pub. L. 109–59, title I, §1501(a), Aug. 10, 2005, 119 Stat. 1235; Pub. L. 110–244, title I, §101(j), June 6, 2008, 122 Stat. 1574.)

AMENDMENTS

2008—Subsecs. (c), (d). Pub. L. 110–244 redesignated subsec. (d) as (c).

2005—Subsecs. (a), (b). Pub. L. 109–59, §1501(a)(2), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b), which related to payment of the Federal share of the cost of congestion mitigation and air quality improvement, surface transportation, bridge, planning, and research projects and Interstate and National Highway System projects which have been subject to advance construction by a State.

Subsecs. (c), (d). Pub. L. 109–59, §1501(a)(1), redesignated subsec. (c) as (d).

1998—Subsec. (a). Pub. L. 105–178, §1106(c)(1)(A)(i), struck out ''Substitute,'' before ''Congestion'' in heading.

Subsec. (a)(1)(A)(i). Pub. L. 105–178, §§1106(c)(1)(A)(ii), 5119(d), struck out ''103(e)(4)(H),'' after ''under section'' and substituted ''or 505'' for ''or 307''.

Subsec. (b). Pub. L. 105–178, §1226(a)(1), as added by Pub. L. 105–206, §9003(a), struck out designation and heading of par. (1), redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, realigned margins, and struck out former pars. (2) and (3), which related to bond interest for projects under construction on Jan. 1, 1983, and directed that Federal share of cost of construction would include amount of bond interest but not in excess of estimated costs over actual costs.

Subsec. (b)(1). Pub. L. 105–178, §1103(*l*)(3)(A), substituted ''104(b)(4)'' for ''104(b)(5)''.

Subsecs. (c), (d). Pub. L. 105–178, §1226(a)(2), (3), as added by Pub. L. 105–206, §9003(a), redesignated subsec. (d) as (c) and struck out heading and text of former subsec. (c). Text read as follows: ''In determining the apportionment for any fiscal year under the provisions of section 103(e)(4), 104, 134, 144,, or 307 of this title, any such project constructed by a State without the aid of Federal funds shall not be considered completed until an application under the provisions of this section with respect to such project has been approved by the Secretary.''

1995—Subsec. (d). Pub. L. 104–59 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows:

''(d) LIMITATION ON ADVANCED FUNDING.—The Secretary may not approve an application under this sec-

tion unless an authorization for section 103(e)(4), 104, 144, or 307 of this title, as the case may be, is in effect for the fiscal year for which the application is sought beyond the currently authorized funds for each State. No applications may be approved which will exceed the State's expected apportionment of such authorizations.''

1992—Subsec. (a). Pub. L. 102–302, §103(1), in heading substituted ''SUBSTITUTE, CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT, SURFACE TRANSPORTATION, BRIDGE, PLANNING, AND RESEARCH PROJECTS'' for ''SUBSTITUTE, URBAN, SECONDARY, BRIDGE, PLANNING, RESEARCH, AND SAFETY CONSTRUCTION PROJECTS''.

Subsec. (a)(1)(A)(i). Pub. L. 102–302, §103(2)(A), added cl. (i) and struck out former cl. (i) which read as follows: ''has obligated all funds apportioned or allocated to it under section 103(e)(4)(H), section 104(b)(2), section 104(b)(6), section 104(f), section 130, section 144, section 152, or section 307 of this title, or''.

Subsec. (a)(2)(A). Pub. L. 102–302, §103(2)(B), added subpar. (A) and struck out former subpar. (A) which read as follows: ''prior to commencement of the project the Secretary approves the plans and specifications therefor in the same manner as other projects, and''.

Subsec. (a)(3). Pub. L. 102–302, §103(2)(C), struck out par. (3) which read as follows: ''LIMITATION WITH RESPECT TO CURRENTLY AUTHORIZED FUNDS.—The Secretary may not approve an application under this section unless an authorization for section 103(e)(4), 104, 130, 144, 152, or 307 of this title, as the case may be, is in effect for the fiscal year for which the application is sought beyond the currently authorized funds for such State. No application may be approved which will exceed the State's expected apportionment of such authorizations. This paragraph shall have no effect during the period beginning January 1, 1987, and ending September 30, 1990.''

Subsec. (b). Pub. L. 102–302, §103(3), (4), in heading substituted ''NATIONAL HIGHWAY SYSTEM'' for ''PRIMARY'' and in par. (1) substituted ''National Highway System'' for ''Federal-aid primary system''.

Subsec. (c). Pub. L. 102–302, §103(5), struck out ''152'' after ''144,''.

Subsec. (d). Pub. L. 102–302, §103(6), added subsec. (d) and struck out former subsec. (d) which read as follows: ''LIMITATION ON ADVANCED FUNDING FOR FISCAL YEARS 1987–1990.—The Secretary may not approve an application of a State under this section with respect to a project with funds apportioned, or currently authorized to be apportioned, under section 103(e)(4)(H), 104, 130, 144, 152, or 307 if the amount of approved applications with respect to such projects exceeds the total of unobligated funds apportioned or allocated to the State under such section, plus such State's expected apportionment under such section from existing authorizations plus an amount equal to such State's expected apportionment under such section (other than section 104(b)(5)(A)) for one additional fiscal year. This subsection shall only be effective during the period beginning January 1, 1987, and ending September 30, 1990.''

1987—Pub. L. 100–17, §113(d)(1)(A), substituted ''Advance construction'' for ''Construction by States in advance of apportionment'' in section catchline.

Subsec. (a). Pub. L. 100–17, §113(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

''(1) When a State has obligated all funds apportioned or allocated to it under section 103(e)(4), 104, or 144 of this title, other than Interstate funds, and proceeds to construct any highway substitute, Federal-aid system, or bridge project, respectively, other than an Interstate project funded under section 104(b)(5) of this title, without the aid of Federal funds in accordance with all procedures and all requirements applicable to such a project, except insofar as such procedures and requirements limit a State to the construction of projects with the aid of Federal funds previously apportioned to it, the Secretary, upon application by such State and his approval of such application, is authorized to pay to such State the Federal share of the costs of construction of such project when additional funds are apportioned to such State under section 103(e)(4), 104, or 144, respectively, of this title if—

''(A) prior to the construction of the project the Secretary approves the plans and specifications therefor in the same manner as other projects, and

''(B) the project conforms to the applicable standards adopted under section 109 of this title.

''(2) The Secretary may not approve an application under this section unless an authorization for section 103(e)(4), 104, or 144 of this title, as the case may be, is in effect for the fiscal year for which the application is sought beyond the currently authorized funds for such State. No application may be approved which will exceed the State's expected apportionment of such authorizations.''

Subsec. (b). Pub. L. 100–17, §113(b), inserted heading.

Subsec. (b)(1). Pub. L. 100–17, §113(b), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''When a State proceeds to construct any project on the Interstate System without the aid of Federal funds, as that System may be designated at that time, in accordance with all procedures and all requirements applicable to projects on such System, except insofar as such procedures and requirements limit a State to the construction of projects with the aid of Federal funds previously apportioned to it, the Secretary, upon application by such State and his approval of such application, is authorized to pay to such State the Federal share of the cost of construction of such project when additional funds are apportioned to such State under section 104 of this title if—

''(A) prior to the construction of the project the Secretary approves the plans and specifications therefor in the same manner as other projects on the Interstate System, and

''(B) the project conforms to the applicable standards under section 109 of this title.''

Subsec. (b)(2), (3). Pub. L. 100–17, §113(d)(1)(B)–(D), inserted headings and aligned pars. (2) and (3) with par. (1), as amended.

Subsec. (c). Pub. L. 100–17, §113(d)(1)(E), (F), inserted heading and substituted ''134, 144, 152, or 307'' for ''or 144''.

Subsec. (d). Pub. L. 100–17, §113(c), added subsec. (d).

1983—Subsec. (a). Pub. L. 97–424, §113(c), designated existing provisions as pars. (1) and (2) and designated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1); in par. (1) as so redesignated, substituted ''When a State has obligated all funds appropriated or allocated to it under section 103(e)(4), 104, or 144 of this title, other than ''interstate funds, and proceeds to construct any highway substitute, Federal-aid system, or bridge project, respectively, other than an Interstate project funded under section 104(b)(5) of this title, without the aid of Federal funds in accordance with all procedures and all requirements applicable to such a project, except insofar as such procedures and requirements limit a State to the construction of projects with the aid of Federal funds previously apportioned to it, the Secretary, upon application by such State and his approval of such application, is authorized to pay to such State the Federal share of the costs of construction of such project when additional funds are apportioned to such State under section 103(e)(4), 104, or 144, respectively, of this title if—'', for ''When a State has obligated all funds for any of the Federal-aid systems, other than the Interstate System, apportioned to it under section 104 of this title, and proceeds to construct any project without the aid of Federal funds, including one or more parts of any project, on any of the Federal-aid systems in such State, other than the Interstate System, as any of those systems may be designated at that time, in accordance with all procedures and all requirements applicable to projects on any such system, except insofar as such procedures and requirements limit a State to the construction of projects with the aid of Federal funds previously apportioned to it, the Secretary, upon application by such State and his approval of such application, is authorized to pay to

such State the Federal share of the costs of construction of such project when additional funds are apportioned to such State under section 104 of this title if—''; in subpar. (A) thereof struck out ''on the Federal-aid system involved'' after ''other projects''; and in par. (2) as so designated inserted ''for section 103(e)(4), 104, or 144 of this title, as the case may be,'' after ''unless authorization'', and made a new sentence of existing provisions, beginning with ''No application''.

Subsec. (b)(2). Pub. L. 97–424, §113(a), substituted ''1983'' for ''1978'' wherever appearing.

Subsec. (b)(3). Pub. L. 97–424, §113(b), added par. (3).

Subsec. (c). Pub. L. 97–424, §113(d), substituted ''section 103(e)(4), 104, or 144'' for ''section 104'' after ''provisions of''.

1979—Subsec. (b). Pub. L. 96–106 designated existing provisions as par. (1) and cls. (1) and (2) thereof as subpars. (A) and (B) and added par. (2).

1975—Subsec. (a). Pub. L. 93–643, §111(a), substituted ''other than the Interstate System'' for ''including the Interstate System'' in two places.

Subsecs. (b), (c). Pub. L. 93–643, §111(b), added subsec. (b) and redesignated former subsec. (b) as (c).

1968—Subsec. (a). Pub. L. 90–495, §25(a), extended advance construction authority to all the Federal-aid highway systems rather than just the Interstate System but provided that anticipation of future apportionments by States should only be permitted for those years for which authorizations have been established by law.

Subsec. (b). Pub. L. 90–495, §25(b), struck out reference to subsec. (b)(5) of section 104 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–495 effective Aug. 23, 1968, see section 37 of Pub. L. 90–495, set out as a note under section 101 of this title.

§116. Maintenance

(a) It shall be the duty of the State transportation department to maintain, or cause to be maintained, any project constructed under the provisions of this chapter or constructed under the provisions of prior Acts. The State's obligation to the United States to maintain any such project shall cease when it no longer constitutes a part of a Federal-aid system.

(b) In any State wherein the State transportation department is without legal authority to maintain a project constructed on the Federal-aid secondary system, or within a municipality, such transportation department shall enter into a formal agreement for its maintenance with the appropriate officials of the county or municipality in which such project is located.

(c) If at any time the Secretary shall find that any project constructed under the provisions of this chapter, or constructed under the provisions of prior Acts, is not being properly maintained, he shall call such fact to the attention of the State transportation department. If, within ninety days after receipt of such notice, such project has not been put in proper condition of maintenance, the Secretary shall withhold approval of further projects of all types in the State highway district, municipality, county, other political or administrative subdivision of the State, or the entire State in which such project is located, whichever the Secretary deems most appropriate, until such project shall have been put in proper condition of maintenance.

(d) PREVENTIVE MAINTENANCE.—A preventive maintenance activity shall be eligible for Federal assistance under this title if the State demonstrates to the satisfaction of the Secretary that the activity is a cost-effective means of extending the useful life of a Federal-aid highway.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 896; Pub. L. 86–70, §21(d)(2), (e)(3), June 25, 1959, 73 Stat. 145, 146; Pub. L. 90–495, §26, Aug. 23, 1968, 82 Stat. 829; Pub. L. 95–599, title I, §124(d), Nov. 6, 1978, 92 Stat. 2705; Pub. L. 97–424, title I, §114, Jan. 6, 1983, 96 Stat. 2107; Pub. L. 100–17, title I, §125(b)(2), Apr. 2, 1987, 101 Stat. 167; Pub. L. 104–59, title III, §309, Nov. 28, 1995, 109 Stat. 582; Pub. L. 105–178, title I, §1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 193; Pub. L. 109–59, title I, §1111(b)(1), Aug. 10, 2005, 119 Stat. 1171.)

AMENDMENTS

2005—Subsec. (b). Pub. L. 109–59 substituted ''such transportation department'' for ''such highway department''.

1998—Subsecs. (a) to (c). Pub. L. 105–178 substituted ''State transportation department'' for ''State highway department''.

1995—Subsec. (d). Pub. L. 104–59 added subsec. (d).

1987—Subsecs. (d), (e). Pub. L. 100–17 struck out subsecs. (d) and (e) which read as follows:

''(d) The Secretary in consultation with the State highway departments and interested and knowledgeable private organizations and individuals shall as soon as possible establish national bridge inspection standards in order to provide for the proper safety inspection of bridges. Such standards shall specify in detail the method by which inspections shall be conducted by the State highway departments, the maximum time lapse between inspections and the qualifications for those charged with the responsibility for carrying out such inspections. Each State shall be required to maintain written reports to be available to the Secretary pursuant to such inspections together with a notation of the action taken pursuant to the findings of such inspections. Each State shall be required to maintain a current inventory of all bridges.

''(e) The Secretary shall establish in cooperation with the State highway departments a program designed to train appropriate employees of the Federal Government and the State governments to carry out bridge inspections. Such a program shall be revised from time to time in light of new or improved techniques. For the purposes of this section the Secretary may use funds made available pursuant to the provisions of section 104(a) and section 307(a) of this title.''

1983—Subsec. (c). Pub. L. 97–424 substituted ''State highway district, municipality, county, other political or administrative subdivision of the State, or the entire State in which such project is located, whichever the Secretary deems most appropriate,'' for ''entire State'' after ''all types in the'', and struck out exception for a situation where such project was subject to an agreement pursuant to subsection (b) of this section, in which case approval was to have been withheld only for secondary or urban projects in the county or municipality where such project is located.

1978—Subsec. (d). Pub. L. 95–599 struck out provisions limiting provisions of the subsection to the Federal-aid system.

1968—Subsecs. (d), (e). Pub. L. 90–495 added subsecs. (d) and (e).

1959—Subsec. (a). Pub. L. 86–70, § 21(e)(3), substituted ''It'' for ''Except as provided in subsection (d) of this section, it''.

Subsec. (d). Pub. L. 86–70, § 21(d)(2), repealed subsec. (d) which related to expenditure of funds apportioned to the Territory of Alaska and contributed by the Territory for the maintenance of roads.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–495 effective Aug. 23, 1968, see section 37 of Pub. L. 90–495, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by section 21(d)(2) of Pub. L. 86–70 effective July 1, 1959, see section 21(d) of Pub. L. 86–70, set out as a note under section 103 of this title.

Amendment by section 21(e)(3) of Pub. L. 86–70 effective July 1, 1959, see section 21(e) of Pub. L. 86–70, set out as a note under section 101 of this title.

ESTABLISHMENT OF MINIMUM FEDERAL GUIDELINES FOR MAINTENANCE; STUDY BY NATIONAL ACADEMY OF SCIENCES AND REPORT

Section 163 of Pub. L. 100–17 directed Secretary to enter into appropriate arrangements with the National Academy of Sciences to conduct a complete investigation of the appropriateness of establishing minimum Federal guidelines for maintenance of the Federal-aid primary, secondary, and urban systems and, not later than 18 months after entering into appropriate arrangements, the National Academy of Sciences was to submit to Secretary and Congress a report on the results of the investigation and study together with recommendations (including legislative and administrative recommendations) concerning establishment of minimum Federal guidelines for maintenance of the Federal-aid primary, secondary, and urban systems.

§ 117. High priority projects program

(a) AUTHORIZATION OF HIGH PRIORITY PROJECTS.—

(1) IN GENERAL.—The Secretary is authorized to carry out high priority projects with funds made available to carry out the high priority projects program under this section.

(2) AVAILABILITY OF FUNDS.—

(A) FOR TEA–21.—Of amounts made available to carry out this section for fiscal years 1998 through 2003, the Secretary, subject to subsection (b), shall make available to carry out each project described in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 257) the amount listed for such project in such section.

(B) FOR SAFETEA–LU.—Of amounts made available to carry out this section for fiscal years 2005 through 2009, the Secretary, subject to subsection (c), shall make available to carry out each project described in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1256) the amount listed for such project in such section.

(3) AVAILABILITY OF UNALLOCATED FUNDS.—Any amounts made available to carry out such program that are not allocated for projects described in such section shall be available to the Secretary, subject to subsection (b), to carry out such other high priority projects as the Secretary determines appropriate.

(b) FOR TEA–21.—For each project to be carried out with funds made available to carry out the high priority projects program under this section for fiscal years 1998 through 2003—

(1) 11 percent of such amount shall be available for obligation beginning in fiscal year 1998;

(2) 15 percent of such amount shall be available for obligation beginning in fiscal year 1999;

(3) 18 percent of such amount shall be available for obligation beginning in fiscal year 2000;

(4) 18 percent of such amount shall be available for obligation beginning in fiscal year 2001;

(5) 19 percent of such amount shall be available for obligation beginning in fiscal year 2002; and

(6) 19 percent of such amount shall be available for obligation beginning in fiscal year 2003.

(c) FOR SAFETEA–LU.—For each project to be carried out with funds made available to carry out the high priority projects program under this section for fiscal years 2005 through 2009—

(1) 20 percent of such amount shall be available for obligation beginning in fiscal year 2005;

(2) 20 percent of such amount shall be available for obligation beginning in fiscal year 2006;

(3) 20 percent of such amount shall be available for obligation beginning in fiscal year 2007;

(4) 20 percent of such amount shall be available for obligation beginning in fiscal year 2008; and

(5) 20 percent of such amount shall be available for obligation beginning in fiscal year 2009.

(d) FEDERAL SHARE.—The Federal share payable on account of any project carried out with funds made available to carry out this section shall be 80 percent of the total cost thereof; except that the Federal share on account of the project to be carried out under item 1419 of the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 309), relating to reconstruction of a road and causeway in Shiloh Military Park in Hardin County, Tennessee, shall be 100 percent of the total cost thereof.

(e) DELEGATION TO STATES.—Subject to the provisions of this title, the Secretary shall delegate responsibility for carrying out a project or projects, with funds made available to carry out this section, to the State in which such project or projects are located upon request of such State.

(f) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for a project under this section—

(1) has obligated all funds allocated under this section and section 1602 of the Transportation Equity Act for the 21st Century or section 1701[1] of the SAFETEA–LU, as the case may be, for such project; and

(2) proceeds to construct such project without the aid of Federal funds in accordance

[1] So in original. Probably should be ''1702''.

with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this section and such section 1602 or 1702, as the case may be.

(g) PERIOD OF AVAILABILITY.—Funds made available to carry out this section shall remain available until expended.

(h) AVAILABILITY OF OBLIGATION LIMITATION.—Obligation authority attributable to funds made available to carry out this section shall only be available for the purposes of this section and shall remain available until obligated pursuant to section 1102(g) of the Transportation Equity Act for the 21st Century or section 1102(g) of the SAFETEA–LU, as the case may be.

(i) TREATMENT.—Funds allocated to a State in accordance with this section shall be treated as amounts in addition to the amounts a State is apportioned under sections 104, 105, and 144 for programmatic purposes.

(Added Pub. L. 105–178, title I, §1601(a), June 9, 1998, 112 Stat. 255; amended Pub. L. 106–346, §101(a) [title III, §363], Oct. 23, 2000, 114 Stat. 1356, 1356A–36; Pub. L. 109–59, title I, §1701(a)–(d), Aug. 10, 2005, 119 Stat. 1254–1256; Pub. L. 110–244, title I, §101(k), June 6, 2008, 122 Stat. 1574.)

REFERENCES IN TEXT

TEA–21 and the Transportation Equity Act for the 21st Century, referred to in subsecs. (a)(2)(A), (b), (d), (f)(1), and (h), are Pub. L. 105–178, June 9, 1998, 112 Stat. 107, as amended. Section 1102(g) of the Act was formerly set out as a note under section 104 of this title. Section 1602 of the Act, 112 Stat. 256, is not classified to the Code. For complete classification of this Act to the Code, see section 1(a) of Pub. L. 105–178, set out as a Short Title of 1998 Amendment note under section 101 of this title and Tables.

The SAFETEA–LU and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, referred to in subsecs. (a)(2)(B), (c), (f)(1), and (h), are Pub. L. 109–59, Aug. 10, 2005, 119 Stat. 1144. Section 1102(g) of the Act is set out as a note under section 104 of this title. Section 1702 of the Act, 119 Stat. 1256, is not classified to the Code. For complete classification of this Act to the Code, see Short Title of 2005 Amendments note set out under section 101 of this title and Tables.

PRIOR PROVISIONS

A prior section 117, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 897; Pub. L. 93–87, title I, §116(a), Aug. 13, 1973, 87 Stat. 258; Pub. L. 94–280, title I, §116, May 5, 1976, 90 Stat. 436; Pub. L. 97–449, §5(d)(1), Jan. 12, 1983, 96 Stat. 2442; Pub. L. 102–240, title I, §1016(f)(2), Dec. 18, 1991, 105 Stat. 1946, related to certification acceptance, prior to repeal by Pub. L. 105–178, title I, §1601(a), June 9, 1998, 112 Stat. 255.

AMENDMENTS

2008—Subsec. (a)(2)(A). Pub. L. 110–244, §101(k)(3), inserted ''(112 Stat. 257)'' after ''21st Century''.

Subsec. (a)(2)(B). Pub. L. 110–244, §101(k)(4), substituted ''subsection (c)'' for ''subsection (b)'' and ''Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1256)'' for ''SAFETEA–LU''.

Subsecs. (c), (d). Pub. L. 110–244, §101(k)(2), redesignated subsec. (c), relating to Federal share, as (d). Former subsec. (d) redesignated (e).

Subsecs. (e) to (i). Pub. L. 110–244, §101(k)(1), redesignated subsecs. (d) to (h) as (e) to (i), respectively.

2005—Subsec. (a). Pub. L. 109–59, §1701(a), reenacted heading without change and amended text of subsec. (a) generally. Prior to amendment, text read as follows: ''The Secretary is authorized to carry out high priority projects with funds made available to carry out the high priority projects program under this section. Of amounts made available to carry out this section, the Secretary, subject to subsection (b), shall make available to carry out each project described in section 1602 of the Transportation Equity Act for the 21st Century the amount listed for such project in such section. Any amounts made available to carry out such program that are not allocated for projects described in such section shall be available to the Secretary, subject to subsection (b), to carry out such other high priority projects as the Secretary determines appropriate.''

Subsec. (b). Pub. L. 109–59, §1701(b), amended heading and text generally. Prior to amendment, text read as follows: ''For each project to be carried out with funds made available to carry out the high priority projects program under this section—

''(1) 11 percent of such amount shall be available for obligation beginning in fiscal year 1998;

''(2) 15 percent of such amount shall be available for obligation beginning in fiscal year 1999;

''(3) 18 percent of such amount shall be available for obligation beginning in fiscal year 2000;

''(4) 18 percent of such amount shall be available for obligation beginning in fiscal year 2001;

''(5) 19 percent of such amount shall be available for obligation beginning in fiscal year 2002; and

''(6) 19 percent of such amount shall be available for obligation beginning in fiscal year 2003.''

Subsec. (c). Pub. L. 109–59, §1701(b), added subsec. (c) relating to SAFETEA–LU projects.

Subsec. (e). Pub. L. 109–59, §1701(c)(2), substituted ''such section 1602 or 1702, as the case may be'' for ''section 1602 of the Transportation Equity Act for the 21st Century'' in concluding provisions.

Subsec. (e)(1). Pub. L. 109–59, §1701(c)(1), inserted ''or section 1701 of the SAFETEA–LU, as the case may be,'' after ''21st Century''.

Subsec. (g). Pub. L. 109–59, §1701(d), inserted ''or section 1102(g) of the SAFETEA–LU, as the case may be'' before period at end.

2000—Subsec. (c). Pub. L. 106–346 inserted before period at end ''; except that the Federal share on account of the project to be carried out under item 1419 of the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 309), relating to reconstruction of a road and causeway in Shiloh Military Park in Hardin County, Tennessee, shall be 100 percent of the total cost thereof''.

§118. Availability of funds

(a) DATE AVAILABLE FOR OBLIGATION.—Except as otherwise specifically provided, authorizations from the Highway Trust Fund (other than the Mass Transit Account) to carry out this title shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

(b) PERIOD OF AVAILABILITY.—

(1) INTERSTATE CONSTRUCTION FUNDS.—Funds apportioned or allocated for Interstate construction in a State (other than Massachusetts) shall remain available for obligation in that State until the last day of the fiscal year in which they are apportioned or allocated. Sums not obligated by the last day of the fiscal year in which they are apportioned or allo-

cated shall be allocated to other States, except Massachusetts, at the discretion of the Secretary. All sums apportioned or allocated on or after October 1, 1994, shall remain available in the State until expended. All sums apportioned or allocated to Massachusetts on or after October 1, 1989, shall remain available until expended.

(2) OTHER FUNDS.—Except as otherwise specifically provided, funds apportioned or allocated pursuant to this title (other than for Interstate construction) in a State shall remain available for obligation in that State for a period of 3 years after the last day of the fiscal year for which the funds are authorized. Any amounts so apportioned or allocated that remain unobligated at the end of that period shall lapse.

(c) SET ASIDES FOR INTERSTATE DISCRETIONARY PROJECTS.—

(1) IN GENERAL.—Before any apportionment is made under section 104(b)(4), the Secretary shall set aside $100,000,000 for each of fiscal years 2005 through 2009 for obligation by the Secretary for projects for resurfacing, restoring, rehabilitating, and reconstructing any route or portion thereof on the Interstate System (other than any highway designated as a part of the Interstate System under section 139 (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)) and any toll road on the Interstate System not subject to an agreement under section 119(e) (as in effect on December 17, 1991).

(2) SELECTION CRITERIA.—The amounts set aside under paragraph (1) shall be made available by the Secretary to any State applying for such funds if the Secretary determines that—

(A) the State has obligated or demonstrates that it will obligate in the fiscal year all of its apportionments under section 104(b)(4) other than an amount that, by itself, is insufficient to pay the Federal share of the cost of a project for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System that has been submitted by the State to the Secretary for approval; and

(B) the applicant is willing and able to—

(i) obligate the funds within 1 year of the date the funds are made available;

(ii) apply the funds to a ready-to-commence project; and

(iii) in the case of construction work, begin work within 90 days after obligation.

(3) PRIORITY CONSIDERATION FOR CERTAIN PROJECTS.—In selecting projects to fund under paragraph (1), the Secretary shall give priority consideration to any project the cost of which exceeds $10,000,000 on any high volume route in an urban area or a high truck-volume route in a rural area.

(4) PERIOD OF AVAILABILITY OF DISCRETIONARY FUNDS.—Sums made available pursuant to this subsection shall remain available until expended.

(d) OBLIGATION AND RELEASE OF FUNDS.—

(1) IN GENERAL.—Funds apportioned or allocated to a State for a purpose for any fiscal year shall be considered to be obligated if a sum equal to the total of the funds apportioned or allocated to the State for that purpose for that fiscal year and previous fiscal years is obligated.

(2) RELEASED FUNDS.—Any funds released by the final payment for a project, or by modifying the project agreement for a project, shall be—

(A) credited to the same class of funds previously apportioned or allocated to the State for the project; and

(B) immediately available for obligation.

(3) NET OBLIGATIONS.—Notwithstanding any other provision of law (including a regulation), obligations recorded against funds made available under this subsection shall be recorded and reported as net obligations.

(e)[1] Funds made available to the State of Alaska and the Commonwealth of Puerto Rico under this title may be expended for construction of access and development roads that will serve resource development, recreational, residential, commercial, industrial, or other like purposes.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 897; Pub. L. 89–574, § 7(a), Sept. 13, 1966, 80 Stat. 768; Pub. L. 94–280, title I, § 117(a), May 5, 1976, 90 Stat. 436; Pub. L. 95–599, title I, § 115(a), Nov. 6, 1978, 92 Stat. 2697; Pub. L. 96–106, § 5(a), Nov. 9, 1979, 93 Stat. 797; Pub. L. 97–424, title I, § 115, Jan. 6, 1983, 96 Stat. 2107; Pub. L. 100–17, title I, §§ 114(a)–(c), (e)(2)–(4), 115, Apr. 2, 1987, 101 Stat. 150–153; Pub. L. 102–240, title I, § 1020, Dec. 18, 1991, 105 Stat. 1948; Pub. L. 102–388, title IV, § 409, Oct. 6, 1992, 106 Stat. 1565; Pub. L. 105–178, title I, §§ 1106(c)(1)(B), 1107(b), 1226(b), June 9, 1998, 112 Stat. 136, 137; Pub. L. 105–206, title IX, § 9003(a), July 22, 1998, 112 Stat. 837; Pub. L. 109–59, title I, §§ 1111(a), 1501(b), Aug. 10, 2005, 119 Stat. 1171, 1235.)

REFERENCES IN TEXT

The date of enactment of the Transportation Equity Act for the 21st Century, referred to in subsec. (c)(1), is the date of enactment of Pub. L. 105–178, which was approved June 9, 1998.

AMENDMENTS

2005—Subsec. (c)(1). Pub. L. 109–59, § 1111(a), substituted ''$100,000,000 for each of fiscal years 2005 through 2009'' for ''$50,000,000 in fiscal year 1998 and $100,000,000 in each of fiscal years 1999 through 2003''.

Subsec. (d). Pub. L. 109–59, § 1501(b), amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows: ''Any Federal-aid highway funds released by the final payment on a project, or by the modification of the project agreement, shall be credited to the same program funding category previously apportioned to the State and shall be immediately available for expenditure.''

1998—Subsec. (b). Pub. L. 105–178, § 1226(b)(1), as added by Pub. L. 105–206, § 9003(a), struck out ''; Discretionary Projects'' after ''Availability'' in heading.

Subsec. (c). Pub. L. 105–178, § 1107(b), reenacted heading without change and amended text of subsec. (c) generally. Prior to amendment, text related to set asides for interstate discretionary projects, including set asides for construction projects and for 4R projects.

Subsec. (d). Pub. L. 105–178, § 1106(c)(1)(B), which directed the redesignation of subsec. (e) as (d) and the

[1] See 1998 Amendment note below.

striking out of former subsec. (d), was executed by redesignating the subsec. (e) added by Pub. L. 105–178, §1226(b)(2) as (d), and striking out former subsec. (d), to reflect the probable intent of Congress. Former subsec. (d) read as follows: ''In addition to amounts otherwise available to carry out this section, an amount equal to the amount by which the unobligated apportionment for the Interstate System in any State is reduced under section 103(e)(4) of this title on account of the withdrawal of a route or portion thereof on the Interstate System, which withdrawal is approved after the date of enactment of this subsection, shall be available to the Secretary for obligation in accordance with subsection (b)(1) of this section.''

Subsec. (e). Pub. L. 105–178, §1106(c)(1)(B)(ii), redesignated subsec. (f) as (e). Subsec. (e) as added by Pub. L. 105–178, §1226(b)(2), redesignated (d), to reflect the probable intent of Congress.

Pub. L. 105–178, §1226(b)(2), as added by Pub. L. 105–226, §9003(a), which directed the addition of subsec. (e) and the striking out of former subsec. (e), was executed by adding subsec. (e) and striking out the former subsec. (e) as in effect before the redesignation of subsecs. (e) and (f) as (d) and (e), respectively, by Pub. L. 105–178, §1106(c)(1)(B)(ii), to reflect the probable intent of Congress. Former subsec. (e) read as follows: ''The total payments to any State shall not at any time during a current fiscal year exceed the total of all apportionments to such State in accordance with section 104 of this title for such fiscal year and all preceding fiscal years.''

Subsec. (f). Pub. L. 105–178, §1106(c)(1)(B)(ii), redesignated subsec. (f) as (e).

1992—Subsec. (b)(1). Pub. L. 102–388 substituted ''construction in a State (other than Massachusetts)'' for ''construction in a State'' and ''after October 1, 1989'' for ''before October 1, 1989''.

1991—Subsec. (a). Pub. L. 102–240, §1020(a), added subsec. (a) and struck out former subsec. (a) which read as follows: ''On and after the date that the Secretary has certified to each State highway department the sums apportioned to each Federal-aid system or part thereof pursuant to an authorization under this title, or under prior Acts, such sums shall be available for expenditure under the provisions of this title.''

Subsec. (b). Pub. L. 102–240, §1020(a), added subsec. (b) and struck out former subsec. (b) which contained provisions relating to periods of availability of non-Interstate funds, Interstate construction funds, and funds for resurfacing, restoring, rehabilitating and reconstructing Interstate System, and provisions deeming obligation of funds as equivalent to expenditure and relating to effect of release of funds.

Subsec. (c)(1). Pub. L. 102–240, §1020(b)(1), (2), substituted ''1992'' for ''1983'' and ''$100,000,000'' for ''$300,000,000''.

Subsec. (c)(2). Pub. L. 102–240, §1020(b)(3), added par. (2) and struck out former par. (2) which read as follows: ''SET ASIDE FOR 4R PROJECTS.—Before any apportionment is made under section 104(b)(5)(B) of this title, the Secretary shall set aside $200,000,000 for obligation by the Secretary in accordance with subsection (b)(3) of this section and subject to section 149(d) of the Federal-Aid Highway Act of 1987.''

Subsec. (d). Pub. L. 102–240, §1020(c), substituted ''(b)(1)'' for ''(b)(2)''.

Subsec. (f). Pub. L. 102–240, §1020(d), struck out ''on a Federal-aid system'' after ''roads''.

1987—Pub. L. 100–17, §114(e)(2), substituted ''Availability of funds'' for ''Availability of sums apportioned'' in section catchline.

Subsec. (b). Pub. L. 100–17, §114(e)(3)(A), inserted heading.

Subsec. (b)(1). Pub. L. 100–17, §114(e)(3)(B), (D), inserted heading and aligned par. (1) with par. (2) as amended.

Subsec. (b)(2). Pub. L. 100–17, §114(a), amended par. (2) generally, revising and restating as subpars. (A) to (F) provisions formerly contained in an undivided paragraph.

Subsec. (b)(3). Pub. L. 100–17, §114(c), amended par. (3) generally, revising and restating as subpars. (A) to (D) provisions formerly contained in an undivided paragraph.

Subsec. (b)(4). Pub. L. 100–17, §114(e)(3)(C), (D), inserted heading and aligned par. (4) with par. (2) as amended.

Subsec. (c). Pub. L. 100–17, §114(b), (e)(4), inserted heading, designated existing provisions as par. (1), inserted par. (1) heading, substituted ''Subject to section 149(d) of the Federal-Aid Highway Act of 1987, such amount'' for ''Such amount'' in par. (1), added par. (2), and aligned par. (1) with par. (2).

Subsec. (f). Pub. L. 100–17, §115, inserted ''and the Commonwealth of Puerto Rico'' after ''the State of Alaska''.

1983—Subsec. (b). Pub. L. 97–424, §115(a), designated existing provisions as pars. (1) through (4), in par. (2) as so designated, substituted ''for projects on the Interstate System (other than projects for which sums are apportioned under section 104(b)(5)(B)) in accordance with the following priorities: First, for high cost projects which directly contribute to the completion of an Interstate segment which is not open to traffic; and second, for projects of high cost in relation to a State's apportionment. Sums may only be made available under this paragraph in any State'' for ''to any other State applying for such funds for the Interstate System,'' after ''available by the Secretary'', struck out former cl. (1), which had required readiness to obligate funds within one year of the date the funds are made available, redesignated former cls. (2) and (3) as (A) and (B), respectively; and in par. (3) as so designated, struck out ''and any amounts so apportioned remaining unexpended at the end of such period shall lapse'' after ''such sums are authorized'', inserted provision relating to the disposition of funds not obligated within the prescribed time period, and inserted further provision that sums made available under this paragraph shall remain available until expended.

Subsecs. (c) to (f). Pub. L. 97–424, §115(b), added subsecs. (c) and (d) and redesignated former subsecs. (c) and (d) as (e) and (f), respectively.

1979—Subsec. (b). Pub. L. 96–106 substituted ''shall continue to be available for expenditure in that State for a period of two years after the close of the fiscal year for which such sums are authorized and any amounts so apportioned remaining unexpended at the end of such period shall lapse'' for ''remaining unexpended at the end of the period of its availability shall lapse''.

1978—Subsec. (b). Pub. L. 95–599 substituted provisions relating to the availability of funds until the end of the fiscal year for provisions relating to the availability of funds until two years after the close of the fiscal year and substituted provisions establishing requirements for eligibility for funds for provisions calling for immediate reapportionment of unexpended funds.

1976—Subsec. (b). Pub. L. 94–280, in revising text, provided for a separate three year period of availability of sums apportioned to a Federal-aid system (other than the Interstate System), increased from the previously applicable two year period; continued the existing two year period for sums apportioned to the Interstate System; substituted provision for reapportionment of sums, apportioned to the States for the Interstate System under section 104(b)(4)(A), under section 104(b)(5)(A) of this title and for lapse of sums apportioned to the Interstate System under section 104(b)(4)(B) of this title for prior provision for reapportionment of sums, apportioned to the States for the Interstate System under section 104(b)(4) and (5), under section 104(b)(5) of this title; and substituted provisions deeming there to be an expenditure of sums apportioned to a Federal-aid system if a sum equal to the total of the sums apportioned to the State for the fiscal year and previous fiscal years is obligated for prior provision deeming an expenditure to exist if a sum equal to the total of the sums apportioned to the States for

the fiscal year and previous fiscal years is covered by formal project agreements providing for the expenditure of funds authorized by each Act which contains provisions authorizing the appropriation of funds for Federal-aid highways.

1966—Subsec. (d). Pub. L. 89–574 added subsec. (d).

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Section 5(b) of Pub. L. 96–106 provided that: ''The amendment made by subsection (a) of this section [amending this section] shall apply to all amounts apportioned under section 104(b)(5)(B) of title 23, United States Code, for the fiscal year 1978 and for subsequent fiscal years.''

USE OF EXCESS FUNDS AND FUNDS FOR INACTIVE PROJECTS

Pub. L. 109–59, title I, §1603, Aug. 10, 2005, 119 Stat. 1248, provided that:

''(a) DEFINITIONS.—In this section, the following definitions apply:

''(1) ELIGIBLE FUNDS.—

''(A) IN GENERAL.—The term 'eligible funds' means excess funds or inactive funds for a specific transportation project or activity that were—

''(i) allocated before fiscal year 1991; and

''(ii) designated in a public law, or a report accompanying a public law, for allocation for the specific surface transportation project or activity.

''(B) INCLUSION.—The term 'eligible funds' includes funds described in subparagraph (A) that were allocated and designated for a demonstration project.

''(2) EXCESS FUNDS.—The term 'excess funds' means—

''(A) funds obligated for a specific transportation project or activity that remain available for the project or activity after the project or activity has been completed or canceled; or

''(B) an unobligated balance of funds allocated for a transportation project or activity that the State in which the project or activity was to be carried out certifies are no longer needed for the project or activity.

''(3) INACTIVE FUNDS.—The term 'inactive funds' means—

''(A) an obligated balance of Federal funds for an eligible transportation project or activity against which no expenditures have been charged during any 1-year period beginning after the date of obligation of the funds; and

''(B) funds that are available to carry out a transportation project or activity in a State, but, as certified by the State, are unlikely to be advanced for the project or activity during the 1-year period beginning on the date of certification.

''(b) AVAILABILITY FOR STP PURPOSES.—Eligible funds shall be—

''(1) made available in accordance with this section to the State that originally received the funds; and

''(2) available for obligation for any eligible purpose under section 133 of title 23, United States Code.

''(c) RETENTION FOR ORIGINAL PURPOSE.—

''(1) IN GENERAL.—The Secretary [of Transportation] may determine that eligible funds identified as inactive funds shall remain available for the purpose for which the funds were initially made available if the applicable State certifies that the funds are necessary for that initial purpose.

''(2) REPORT.—A certification provided by a State under paragraph (1) shall include a report on the status of, and an estimated completion date for, the project that is the subject of the certification.

''(d) AUTHORITY TO OBLIGATE.—Notwithstanding the original source or period of availability of eligible funds, the Secretary [of Transportation] may, on the request by a State—

''(1) obligate the funds for any eligible purpose under section 133 of title 23, United States Code; or

''(2)(A) deobligate the funds; and

''(B) reobligate the funds for any eligible purpose under that section.

''(e) APPLICABILITY.—

''(1) IN GENERAL.—Subject to paragraph (2), this section applies only to eligible funds.

''(2) DISCRETIONARY ALLOCATIONS; SECTION 125 PROJECTS.—This section does not apply to funds that are—

''(A) allocated at the discretion of the Secretary [of Transportation] and for which the Secretary has the authority to withdraw the allocation for use on other projects; or

''(B) made available to carry out projects under section 125 of title 23, United States Code.

''(f) PERIOD OF AVAILABILITY; TITLE 23 REQUIREMENTS.—

''(1) IN GENERAL.—Notwithstanding the original source or period of availability of eligible funds obligated, or deobligated and reobligated, under subsection (d), the eligible funds—

''(A) shall remain available for obligation for a period of 3 fiscal years after the fiscal year in which this Act is enacted; and

''(B) except as provided in paragraph (2), shall be subject to the requirements of title 23, United States Code, that apply to section 133 of that title, including provisions relating to Federal share.

''(2) EXCEPTION.—With respect to eligible funds described in paragraph (1)—

''(A) section 133(d) of title 23, United States Code, shall not apply; and

''(B) the period of availability of the eligible funds shall be determined in accordance with this section.

''(g) REPORT.—Not later than 1 year after the date of enactment of this Act [Aug. 10, 2005], and annually thereafter, the Secretary [of Transportation] shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing any action taken by the Secretary under this section.

''(h) SENSE OF CONGRESS REGARDING USE OF ELIGIBLE FUNDS.—It is the sense of Congress that eligible funds made available under this Act [see Tables for classification] or title 23, United States Code, should be available for obligation for transportation projects and activities in the same geographic region for which the eligible funds were initially made available.''

§ 119. Interstate maintenance program

(a) IN GENERAL.—

(1) PROJECTS.—The Secretary may approve projects for resurfacing, restoring, rehabilitating, and reconstructing—

(A) routes on the Interstate System designated under section 103(c)(1) and, in Alaska and Puerto Rico, under section 103(c)(4)(A);

(B) routes on the Interstate System designated before the date of enactment of the Transportation Equity Act for the 21st Century under subsections (a) and (b) of section 139 (as in effect on the day before the date of enactment of such Act); and

(C) any segments that become part of the Interstate System under section 1105(e)(5) of the Intermodal Surface Transportation Efficiency Act of 1991.

(2) TOLL ROADS.—The Secretary may approve a project pursuant to this subsection on a toll road only if such road is subject to a Secretarial agreement provided for in section 129 or continued in effect by section 1012(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1939) and not voided by the Secretary under section 120(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 159).

(3) FUNDING.—Sums authorized to be appropriated to carry out this section shall be out of the Highway Trust Fund and shall be apportioned in accordance with section 104(b)(4).

(b) TRANSFER OF INTERSTATE CONSTRUCTION APPORTIONMENTS.—Upon application by a State (other than the State of Massachusetts) and approval by the Secretary, the Secretary may transfer to the apportionments to such State under section 104(b)(1) or 104(b)(4) any amount of the funds apportioned to such State for any fiscal year under section 104(b)(5)(A) (as in effect on the date before the date of enactment of the Transportation Equity Act for the 21st Century) if such amount does not exceed the Federal share of the costs of construction of segments of the Interstate System open to traffic in such State (other than high occupancy vehicle lanes) included in the most recent interstate cost estimate. Upon transfer of such amount, the construction on which such amount is based on open-to-traffic segments of the Interstate System in such State as included in the latest interstate cost estimate shall be ineligible and shall not be included in future interstate cost estimates approved or adjusted under section 104(b)(5)(A) (as in effect on the date before the date of enactment of the Transportation Equity Act for the 21st Century).

(c) TRANSFER OF FUNDS FOR SURFACE TRANSPORTATION PROGRAM PROJECTS.—

(1) UPON CERTIFICATION ACCEPTANCE.—If a State certifies to the Secretary that any part of the sums apportioned to the State under section 104(b)(4) of this title are in excess of the needs of the State for resurfacing, restoring, or rehabilitating Interstate System routes and the State is adequately maintaining the Interstate System and the Secretary accepts such certification, the State may transfer such excess part to its apportionment under sections 104(b)(1) and 104(b)(3).

(2) UNCONDITIONAL.—Notwithstanding paragraph (1), a State may transfer to its apportionment under sections 104(b)(1) and 104(b)(3) of this title—

(A) in fiscal year 1987, an amount not to exceed 20 percent of the funds apportioned to the State under section 104(b)(4) which are not obligated at the time of the transfer; and

(B) in any fiscal year thereafter, an amount not to exceed 20 percent of the funds apportioned to the State under section 104(b)(4) for such fiscal year.

(d) LIMITATION ON NEW CAPACITY.—Notwithstanding any other provision of this title, the portion of the cost of any project undertaken pursuant to this section that is attributable to the expansion of the capacity of any Interstate highway or bridge, where such new capacity consists of one or more new travel lanes that are not high-occupancy vehicle lanes or auxiliary lanes, shall not be eligible for funding under this section.

(Added Pub. L. 95–599, title I, §116(a), Nov. 6, 1978, 92 Stat. 2698; amended Pub. L. 96–106, §18, Nov. 9, 1979, 93 Stat. 799; Pub. L. 97–134, §§6, 7, Dec. 29, 1981, 95 Stat. 1701; Pub. L. 97–424, title I, §116(a)(1), (2), (b), (c), Jan. 6, 1983, 96 Stat. 2109; Pub. L. 98–229, §8(b), Mar. 9, 1984, 98 Stat. 56; Pub. L. 99–190, §101(e) [title III, §327], Dec. 19, 1985, 99 Stat. 1267, 1289; Pub. L. 100–17, title I, §116(a)–(c)(1), Apr. 2, 1987, 101 Stat. 154, 155; Pub. L. 100–202, §101(*l*) [title III, §347(b)], Dec. 22, 1987, 101 Stat. 1329–358, 1329–388; Pub. L. 102–240, title I, §1009(a), (b), (e)(1), (3)–(5), Dec. 18, 1991, 105 Stat. 1933, 1934; Pub. L. 105–178, title I, §1107(a), (d), June 9, 1998, 112 Stat. 137; Pub. L. 105–206, title IX, §9002(f), July 22, 1998, 112 Stat. 836.)

REFERENCES IN TEXT

The date of enactment of the Transportation Equity Act for the 21st Century, referred to in subsecs. (a)(1)(B) and (b), is the date of enactment of Pub. L. 105–178, which was approved June 9, 1998.

Section 1105(e)(5) of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (a)(1)(C), is section 1105(e)(5) of Pub. L. 102–240 (see 109 Stat. 597) which is not classified to the Code.

Section 1012(d) of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (a)(2), is section 1012(d) of Pub. L. 102–240, which is set out as a note under section 129 of this title.

Section 120(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987, referred to in subsec. (a)(2), is section 120(c) of Pub. L. 100–17, which is not classified to the Code.

PRIOR PROVISIONS

A prior section 119, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 899, related to administration of Federal aid for highways in Alaska, prior to repeal by Pub. L. 86–70, §21(d)(3), June 25, 1959, 73 Stat. 145, effective July 1, 1959.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–178, §1107(a)(1), added subsec. (a) and struck out former subsec. (a) which read as follows: ''The Secretary may approve projects for resurfacing, restoring and rehabilitating routes on the Interstate System designated under sections 103 and 139(c) of this title and routes on the Interstate System designated before the date of enactment of this sentence under section 139(a) and (b) of this title; except that the Secretary may only approve a project pursuant to this subsection on a toll road if such road is subject to a Secretarial agreement provided for in subsection (e). Sums authorized to be appropriated for this section shall be out of the Highway Trust Fund and shall be apportioned in accordance with section 104(b)(5)(B) of this title.''

Subsec. (b). Pub. L. 105–178, §1107(d)(1), as added by Pub. L. 105–206, §9002(f), substituted ''104(b)(4)'' for ''104(b)(5)(B)'' in first sentence and ''104(b)(5)(A) (as in

effect on the date before the date of enactment of the Transportation Equity Act for the 21st Century)'' for ''104(b)(5)(A)'' in two places.

Pub. L. 105–178, § 1107(a)(2), (3), redesignated subsec. (d) as (b) and struck out former subsec. (b) which read as follows: ''Not later than one year after the date of issuance of initial guidelines under section 109(m) of this title each State shall have a program for the Interstate system in accordance with such guidelines. Each State shall certify on January 1st of each year that it has such a program and the Interstate system is maintained in accordance with that program. If a State fails to certify as required or if the Secretary determines a State is not adequately maintaining the Interstate system in accordance with such program then the next apportionment of funds to such State for the Interstate system shall be reduced by amounts equal to 10 per centum of the amount which would otherwise be apportioned to such State under section 104 of this title. If, within one year from the date the apportionment for a State is reduced under this subsection, the Secretary determines that such State is maintaining the Interstate system in accordance with the guidelines the apportionment of such State shall be increased by an amount equal to the reduction. If the Secretary does not make such a determination within such one year period the amount so withheld shall be reapportioned to all other eligible States.''

Subsec. (c). Pub. L. 105–178, § 1107(d)(2), as added by Pub. L. 105–206, § 9002(f), substituted ''104(b)(4)'' for ''104(b)(5)(B)'' wherever appearing.

Pub. L. 105–178, § 1107(a)(2), (3), redesignated subsec. (f) as (c) and struck out heading and text of former subsec. (c). Text read as follows: ''Activities authorized in subsection (a) may include the reconstruction of bridges, interchanges, and over crossings along existing Interstate routes, including the acquisition of right-of-way where necessary, but shall not include the construction of new travel lanes other than high occupancy vehicle lanes or auxiliary lanes.''

Subsec. (d). Pub. L. 105–178, § 1107(a)(3), redesignated subsec. (g) as (d). Former subsec. (d) redesignated (b).

Subsec. (e). Pub. L. 105–178, § 1107(a)(2), struck out heading and text of subsec. (e). Text read as follows: ''Preventive maintenance activities shall be eligible under this section when a State can demonstrate, through its pavement management system, that such activities are a cost-effective means of extending Interstate pavement life.''

Subsecs. (f), (g). Pub. L. 105–178, § 1107(a)(3), redesignated subsecs. (f) and (g) as (c) and (d), respectively.

1991—Pub. L. 102–240, § 1009(e)(1), substituted ''maintenance program'' for ''System resurfacing'' in section catchline.

Subsec. (a). Pub. L. 102–240, § 1009(e)(5)(A), (B), substituted ''and rehabilitating'' for '', rehabilitating, and reconstructing'' and struck out at end ''The Federal share for any project under this subsection shall be that set forth in section 120(c) of this title.''

Subsec. (c). Pub. L. 102–240, § 1009(e)(3), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''Reconstructing as authorized in subsection (a) of this section may include, but is not limited to, the addition of travel lanes and the construction and reconstruction of interchanges and overcrossings along existing completed interstate routes, including the acquisition of right-of-way where necessary.''

Subsec. (e). Pub. L. 102–240, § 1009(e)(4), amended subsec. (e) generally, substituting present provisions for provisions authorizing Secretary to approve projects on toll roads only after reaching agreement with State highway department and public authorities that road will become free upon collection of tolls sufficient to liquidate cost of road and outstanding bonds and cost of maintenance, operation and debt service during period of toll collections, provisions relating to repayment to Federal Treasury, or reduction in apportionment, if road did not become free after collection of sufficient tolls, and provisions requiring pre-existing agreements to be treated as agreements under subsec. (e).

Subsec. (f). Pub. L. 102–240, § 1009(e)(5)(C), substituted ''Surface Transportation Program'' for ''Primary System'' in heading.

Subsec. (f)(1). Pub. L. 102–240, § 1009(b), (e)(5)(D), (E), substituted ''or rehabilitating'' for ''rehabilitating, or reconstructing'', substituted ''sections 104(b)(1) and 104(b)(3)'' for ''section 104(b)(1)'', and inserted ''the State is adequately maintaining the Interstate System and'' after ''routes and''.

Subsec. (f)(2). Pub. L. 102–240, § 1009(e)(5)(E), substituted ''sections 104(b)(1) and 104(b)(3)'' for ''section 104(b)(1)'' in introductory provisions.

Subsec. (g). Pub. L. 102–240, § 1009(a), added subsec. (g).

1987—Subsec. (a). Pub. L. 100–17, § 116(c)(1), substituted ''subsection (e)'' for ''section 105 of the Federal-Aid Highway Act of 1978''.

Subsec. (d). Pub. L. 100–17, § 116(a), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''Upon application by a State and approval by the Secretary, the Secretary may authorize the transfer of so much of the amount apportioned to such State for any fiscal year under paragraph (5)(A) of subsection (b) of section 104 of this title, as does not exceed the Federal share of the cost of segments of the Interstate System open to traffic in such State (other than high occupancy vehicle lanes), in the most recent cost estimate, to the apportionment under paragraph (5)(B) of subsection (b) of section 104 of this title, except that not more than 50 per centum of the total apportionment under such paragraph (5)(A) for a fiscal year shall be transferred under this subsection for such fiscal year. The next cost estimate submitted to Congress under paragraph (5)(A) of subsection (b) of such section 104 of the cost of completing segments of the Interstate System open to traffic in that State (other than high occupancy vehicle lanes) shall be reduced for such State in an amount equal to the amount transferred under this subsection. Notwithstanding any other provision of law, and for the purposes of this subsection, the phrase 'segments of the interstate system open to traffic' shall include a proposed four-lane, limited access highway, 6.4 miles in length, the construction of which will relocate to a southern alignment a portion of an existing interstate highway which was originally built without the aid of funds authorized by section 108(b) of the Federal-Aid Highway Act of 1956, as amended, and which connects to the east with an interstate highway on which tolls are charged. The construction of the proposed highway shall include a bridge over the Monongahela River.''

Subsec. (e). Pub. L. 100–17, § 116(b), added subsec. (e).

Subsec. (f). Pub. L. 100–202 substituted ''amount not to exceed'' for ''amount equal to'' in par. (2)(B).

Pub. L. 100–17, § 116(b), added subsec. (f).

1985—Subsec. (d). Pub. L. 99–190 inserted provisions which brought within the phrase ''segments of the interstate system open to traffic'' a proposed four-lane limited access highway, 6.4 miles in length, the construction of which will relocate to a southern alignment a portion of an existing highway originally built without the aid of Federal funds, connecting to the east with an interstate highway on which tolls are charged, with the proposed highway to include a bridge over the Monongahela River.

1984—Subsec. (a). Pub. L. 98–229 substituted provision authorizing the Secretary to approve projects designated under sections 103 and 139(c) of this title and routes on the Interstate System designated before Mar. 9, 1984, under section 139(a) and (b) of this title for provision authorizing the Secretary, beginning with funds apportioned for the fiscal year 1980, to approve projects under sections 103 and 139(c) of this title and, beginning with funds apportioned for fiscal year 1984, to approve routes or portions thereof on the Interstate System designated before Jan. 6, 1983, under section 139(a) of this title, which routes or portions were so designated in conjunction with the withdrawal of approval of another route or portion on the Interstate System under section 103(e)(4) of this title and provision that the Federal share be that as set forth in section 120(c) of this

title for provision that the Federal share be that as set forth in section 120(a) of this title and that effective on or after Dec. 29, 1981, the Federal share be that as set forth in section 120(c) of this title.

1983—Subsec. (a). Pub. L. 97–424, § 116(a)(1), inserted provision that, additionally, beginning with funds apportioned for fiscal year 1984, the Secretary may approve projects for resurfacing, restoring, rehabilitating, and reconstructing those routes or portions thereof on the Interstate System designated before Jan. 6, 1983, under section 139(a) of this title (other than routes on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) which routes or portions were so designated in conjunction with the withdrawal of approval of another route or portion thereof on the Interstate System under section 103(e)(4) of this title.

Pub. L. 97–424, § 116(a)(2), substituted ''under this subsection'' for ''designated under sections 103 and 139(c) of this title'' before ''shall be that set forth in section 120(c) of this title''.

Subsecs. (b), (c). Pub. L. 97–424, § 116(b), redesignated the second of two sections designated (b) as (c).

Subsec. (d). Pub. L. 97–424, § 116(c), added subsec. (d).

1981—Subsec. (a). Pub. L. 97–134, §§ 6(a), 7, substituted ''rehabilitating, and reconstructing routes of the Interstate System designated under sections 103 and 139(c) of this title'' for ''and rehabilitating those lanes in use for more than five years on the Interstate System'', and inserted provision that effective on and after Dec. 29, 1981, the Federal share for projects financed by funds apportioned under section 104(b)(5)(B) of this title for resurfacing, restoring, rehabilitating, and reconstructing routes of the Interstate System designated under sections 103 and 139(c) of this title shall be that set forth in section 120(c) of this title.

Subsec. (b). Pub. L. 97–134, § 6(b), added subsec. (b) providing that reconstruction may include the addition of travel lanes and the construction and reconstruction of interchanges and overcrossings along existing completed interstate routes, including the acquisition of right-of-way where necessary.

1979—Subsec. (b). Pub. L. 96–106 substituted ''January 1st'' for ''October 1st'' and ''next apportionment of funds to such State'' for ''funds apportioned to such State for that fiscal year''.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

INTERSTATE NEEDS STUDY

Pub. L. 105–178, title I, § 1107(c), June 9, 1998, 112 Stat. 138, provided that:

''(1) STUDY.—The Secretary shall conduct, in cooperation with States and affected metropolitan planning organizations, a study to determine—

''(A) the expected condition of the Interstate System over the next 10 years and the needs of States and metropolitan planning organizations to reconstruct and improve the Interstate System;

''(B) the resources necessary to maintain and improve the Interstate System; and

''(C) the means to ensure that the Nation's surface transportation program can—

''(i) address the needs identified in subparagraph (A); and

''(ii) allow for States to address any extraordinary needs.

''(2) REPORT.—Not later than January 1, 2000, the Secretary shall transmit to Congress a report on the results of the study.''

GUIDANCE TO STATES

Section 1009(c) of Pub. L. 102–240 provided that: ''The Secretary shall develop and make available to the States criteria for determining—

''(1) what share of any project funded under section 119 of title 23, United States Code, is attributable to the expansion of the capacity of an Interstate highway or bridge; and

''(2) what constitutes adequate maintenance of the Interstate System for the purposes of section 119(f)(1) of title 23, United States Code.''

INNOVATIVE TECHNOLOGIES

Section 142 of Pub. L. 97–424 provided that:

''(a) The Congress hereby finds and declares that it is in the national interest to encourage and promote utilization by the States of highway and bridge surfacing, resurfacing, or restoration materials which are produced from recycled materials or which contain asphalt additives to strengthen the materials. Such materials conserve energy and reduce the cost of resurfacing or restoring our highways.

''(b) The Secretary of Transportation is hereby authorized for each of the fiscal years through September 30, 1985, to increase the Federal share as provided in sections 119, 120, and 144 of title 23, United States Code, by 5 per centum of any project submitted by the State highway departments which contains in the plans, specifications, and estimates submitted pursuant to section 106, of title 23, United States Code, the use of the materials described in subsection (a). To be eligible for such supplemental Federal assistance, significant amounts of asphalt additives or recycled materials must be used in each project approved by the Secretary.

''(c) The Secretary shall establish a procedure within ninety days of the date of enactment of this Act [Jan. 6, 1983] for increasing the Federal share under this section.''

§ 120. Federal share payable

(a) INTERSTATE SYSTEM PROJECTS.—

(1) IN GENERAL.—Except as otherwise provided in this chapter, the Federal share payable on account of any project on the Interstate System (including a project to add high occupancy vehicle lanes and a project to add auxiliary lanes but excluding a project to add any other lanes) shall be 90 percent of the total cost thereof, plus a percentage of the remaining 10 percent of such cost in any State containing unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal, exceeding 5 percent of the total area of all lands therein, equal to the percentage that the area of such lands in such State is of its total area; except that such Federal share payable on any project in any State shall not exceed 95 percent of the total cost of such project.

(2) STATE-DETERMINED LOWER FEDERAL SHARE.—In the case of any project subject to paragraph (1), a State may determine a lower Federal share than the Federal share determined under such paragraph.

(b) OTHER PROJECTS.—Except as otherwise provided in this title, the Federal share payable on

account of any project or activity carried out under this title (other than a project subject to subsection (a)) shall be—

(1) 80 percent of the cost thereof, except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 percent of the total area of all lands therein, the Federal share, for purposes of this chapter, shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State, is of its total area; or

(2) 80 percent of the cost thereof, except that in the case of any State containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the Federal share, for purposes of this chapter, shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area;

except that the Federal share payable on any project in a State shall not exceed 95 percent of the total cost of any such project. In any case where a State elects to have the Federal share provided in paragraph (2) of this subsection, the State must enter into an agreement with the Secretary covering a period of not less than 1 year, requiring such State to use solely for purposes eligible for assistance under this title (other than paying its share of projects approved under this title) during the period covered by such agreement the difference between the State's share as provided in paragraph (2) and what its share would be if it elected to pay the share provided in paragraph (1) for all projects subject to such agreement. In the case of any project subject to this subsection, a State may determine a lower Federal share than the Federal share determined under the preceding sentences of this subsection.

(c) INCREASED FEDERAL SHARE.—

(1) CERTAIN SAFETY PROJECTS.—The Federal share payable on account of any project for traffic control signalization, traffic circles (also known as ''roundabouts''), safety rest areas, pavement marking, commuter carpooling and vanpooling, rail-highway crossing closure, or installation of traffic signs, traffic lights, guardrails, impact attenuators, concrete barrier endtreatments, breakaway utility poles, or priority control systems for emergency vehicles or transit vehicles at signalized intersections may amount to 100 percent of the cost of construction of such projects; except that not more than 10 percent of all sums apportioned for all the Federal-aid systems for any fiscal year in accordance with section 104 of this title shall be used under this subsection. In this subsection, the term ''safety rest area'' means an area where motor vehicle operators can park their vehicles and rest, where food, fuel, and lodging services are not available, and that is located on a segment of highway with respect to which the Secretary determines there is a shortage of public and private areas at which motor vehicle operators can park their vehicles and rest.

(2) CMAQ PROJECTS.—The Federal share payable on account of a project or program carried out under section 149 with funds obligated in fiscal year 2008 or 2009, or both, shall be not less than 80 percent and, at the discretion of the State, may be up to 100 percent of the cost thereof.

(d) The Secretary may rely on a statement from the Secretary of the Interior as to the area of the lands referred to in subsections (a) and (b) of this section. The Secretary of the Interior is authorized and directed to provide such statement annually.

(e) EMERGENCY RELIEF.—The Federal share payable on account of any repair or reconstruction provided for by funds made available under section 125 of this title on account of any project on a Federal-aid highway, including the Interstate System, shall not exceed the Federal share payable on a project on such highway as provided in subsections (a) and (b) of this section; except that (1) the Federal share payable for eligible emergency repairs to minimize damage, protect facilities, or restore essential traffic accomplished within 180 days after the actual occurrence of the natural disaster or catastrophic failure may amount to 100 percent of the costs thereof; and (2) the Federal share payable on account of any repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads may amount to 100 percent of the cost thereof. The total cost of a project may not exceed the cost of repair or reconstruction of a comparable facility. As used in this section with respect to bridges and in section 144 of this title, ''a comparable facility'' shall mean a facility which meets the current geometric and construction standards required for the types and volume of traffic which such facility will carry over its design life.

(f) The Secretary is authorized to cooperate with the State transportation departments and with the Department of the Interior in the construction of Federal-aid highways within Indian reservations and national parks and monuments under the jurisdiction of the Department of the Interior and to pay the amount assumed therefor from the funds apportioned in accordance with section 104 of this title to the State wherein the reservations and national parks and monuments are located.

(g) At the request of any State, the Secretary may from time to time enter into agreements with such State to reimburse the State for the Federal share of the costs of preliminary and construction engineering at an agreed percentage of actual construction costs for each project, in lieu of the actual engineering costs for such project. The Secretary shall annually review each such agreement to insure that such percentage reasonably represents the engineering costs actually incurred by such State.

(h) Notwithstanding any other provision of this section or of this title, the Federal share payable on account of any project under this title in the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands shall be 100 per centum of the total cost of the project.

(i) INCREASED NON-FEDERAL SHARE.—Notwithstanding any other provision of this title and subject to such criteria as the Secretary may establish, a State may contribute an amount in excess of the non-Federal share of a project under this title so as to decrease the Federal share payable on such project.

(j) CREDIT FOR NON-FEDERAL SHARE.—

(1) ELIGIBILITY.—

(A) IN GENERAL.—A State may use as a credit toward the non-Federal share requirement for any funds made available to carry out this title (other than the emergency relief program authorized by section 125 and the Appalachian development highway system program under section 14501 of title 40) or chapter 53 of title 49 toll revenues that are generated and used by public, quasi-public, and private agencies to build, improve, or maintain highways, bridges, or tunnels that serve the public purpose of interstate commerce.

(B) SPECIAL RULE FOR USE OF FEDERAL FUNDS.—If the public, quasi-public, or private agency has built, improved, or maintained the facility using Federal funds, the credit under this paragraph shall be reduced by a percentage equal to the percentage of the total cost of building, improving, or maintaining the facility that was derived from Federal funds.

(C) FEDERAL FUNDS DEFINED.—In this paragraph, the term ''Federal funds'' does not include loans of Federal funds or other financial assistance that must be repaid to the Government.

(2) MAINTENANCE OF EFFORT.—

(A) IN GENERAL.—The credit for any non-Federal share provided under this subsection shall not reduce nor replace State funds required to match Federal funds for any program under this title.

(B) CONDITION ON RECEIPT OF CREDIT.—To receive a credit under paragraph (1) for a fiscal year, a State shall enter into such agreement as the Secretary may require to ensure that the State will maintain its non-Federal transportation capital expenditures in such fiscal year at or above the average level of such expenditures for the preceding 3 fiscal years; except that if, for any 1 of the preceding 3 fiscal years, the non-Federal transportation capital expenditures of the State were at a level that was greater than 130 percent of the average level of such expenditures for the other 2 of the preceding 3 fiscal years, the agreement shall ensure that the State will maintain its non-Federal transportation capital expenditures in the fiscal year of the credit at or above the average level of such expenditures for the other 2 fiscal years.

(C) TRANSPORTATION CAPITAL EXPENDITURES DEFINED.—In subparagraph (B), the term ''non-Federal transportation capital expenditures'' includes any payments made by the State for issuance of transportation-related bonds.

(3) TREATMENT.—

(A) LIMITATION ON LIABILITY.—Use of a credit for a non-Federal share under this subsection that is received from a public, quasi-public, or private agency—

(i) shall not expose the agency to additional liability, additional regulation, or additional administrative oversight; and

(ii) shall not subject the agency to any additional Federal design standards or laws (including regulations) as a result of providing the non-Federal share other than those to which the agency is already subject.

(B) CHARTERED MULTISTATE AGENCIES.—When a credit that is received from a chartered multistate agency is applied to a non-Federal share under this subsection, such credit shall be applied equally to all charter States.

(k) USE OF FEDERAL LAND MANAGEMENT AGENCY FUNDS.—Notwithstanding any other provision of law, the funds appropriated to any Federal land management agency may be used to pay the non-Federal share of the cost of any project the Federal share of which is funded under this title or chapter 53 of title 49.

(*l*) USE OF FEDERAL LANDS HIGHWAYS PROGRAM FUNDS.—Notwithstanding any other provision of law, the funds authorized to be appropriated to carry out the Federal lands highways program under section 204 may be used to pay the non-Federal share of the cost of any project that is funded under this title or chapter 53 of title 49 and that provides access to or within Federal or Indian lands.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 898; Pub. L. 86–70, §21(d)(4), (e)(4), June 25, 1959, 73 Stat. 145, 146; Pub. L. 86–342, title I, §107(b), Sept. 21, 1959, 73 Stat. 613; Pub. L. 86–657, §3, July 14, 1960, 74 Stat. 522; Pub. L. 88–658, Oct. 13, 1964, 78 Stat. 1090; Pub. L. 89–574, §9(a), Sept. 13, 1966, 80 Stat. 769; Pub. L. 90–495, §§27(b), 34, Aug. 23, 1968, 82 Stat. 829, 835; Pub. L. 91–605, title I, §§106(f), 108(a), 109(b), 128, Dec. 31, 1970, 84 Stat. 1718, 1719, 1731; Pub. L. 95–599, title I, §§117, 129(a)–(c), (i), Nov. 6, 1978, 92 Stat. 2699, 2707, 2708; Pub. L. 97–424, title I, §§109(b), 117, 123(a), 153(f), 156(c), Jan. 6, 1983, 96 Stat. 2105, 2109, 2113, 2133, 2134; Pub. L. 98–78, title III, §318, Aug. 15, 1983, 97 Stat. 473; Pub. L. 100–17, title I, §117(a)–(c)(1), (d), (e), Apr. 2, 1987, 101 Stat. 155, 156; Pub. L. 102–240, title I, §§1021(a), (b), 1022(a), Dec. 18, 1991, 105 Stat. 1950, 1951; Pub. L. 104–59, title III, §310(a), Nov. 28, 1995, 109 Stat. 582; Pub. L. 104–205, title III, §353(a), Sept. 30, 1996, 110 Stat. 2980; Pub. L. 105–178, title I, §§1111(a)–(c), 1113(a), (c), formerly (d), 1115(a), (f)(1), 1212(a)(2)(A)(ii), June 9, 1998, 112 Stat. 145, 151, 152, 154, 193; Pub. L. 105–206, title IX, §§9002(i), 9006(a)(2), July 22, 1998, 112 Stat. 836, 848; Pub. L. 109–59, title I, §§1111(b)(2), 1116(c), 1119(a), 1905, 1947, Aug. 10, 2005, 119 Stat. 1171, 1177, 1181, 1467, 1513; Pub. L. 110–140, title XI, §1131, Dec. 19, 2007, 121 Stat. 1763.)

AMENDMENTS

2007—Subsec. (c). Pub. L. 110–140 struck out ''for Certain Safety Projects'' after ''Share'' in subsec. heading, designated existing provisions as par. (1), inserted par. (1) heading, and added par. (2).

2005—Subsec. (c). Pub. L. 109–59, §1947, inserted ''traffic circles (also known as 'roundabouts'),'' after ''traffic control signalization,''.

Subsec. (e). Pub. L. 109–59, §1111(b)(2), substituted ''such highway'' for ''such system'' in first sentence.

Subsec. (j). Pub. L. 109–59, §1116(c), inserted ''and the Appalachian development highway system program under section 14501 of title 40'' after ''section 125''.

Subsec. (j)(1). Pub. L. 109–59, §1905, designated existing provisions as subpar. (A), inserted heading, and substituted subpars. (B) and (C) for ''Such public, quasi-public, or private agencies shall have built, improved, or maintained such facilities without Federal funds.''

Subsec. (k). Pub. L. 109–59, §1119(a)(1), struck out ''Federal-aid highway'' before ''project'' and substituted ''this title or chapter 53 of title 49'' for ''section 104''.

Subsec. (*l*). Pub. L. 109–59, §1119(a)(2), substituted ''this title or chapter 53 of title 49'' for ''section 104''.

1998—Subsec. (a). Pub. L. 105–178, §1111(a)(1), designated existing provisions as par. (1), inserted heading, realigned margins, and added par. (2).

Subsec. (b). Pub. L. 105–178, §1111(a)(2), inserted at end of concluding provisions ''In the case of any project subject to this subsection, a State may determine a lower Federal share than the Federal share determined under the preceding sentences of this subsection.''

Subsec. (c). Pub. L. 105–178, §1111(b), inserted ''or transit vehicles'' after ''emergency vehicles'' in first sentence.

Subsec. (e). Pub. L. 105–178, §1113(c), formerly §1113(d), renumbered §1113(c) by Pub. L. 105–206, §9006(a)(2), substituted ''and (b)'' for ''and (c)'' and ''180 days'' for ''90 days''.

Pub. L. 105–178, §1113(a), substituted ''highway'' for ''highway system'' in first sentence.

Subsec. (f). Pub. L. 105–178, §1212(a)(2)(A)(ii), substituted ''State transportation departments'' for ''State highway departments''.

Subsec. (j). Pub. L. 105–178, §1115(f)(1), as added by Pub. L. 105–206, §9002(i), redesignated subsec. (j), relating to use of Federal land management agency funds, as (k).

Pub. L. 105–178, §1115(a), added subsec. (j) relating to use of Federal land management agency funds.

Pub. L. 105–178, §1111(c), added subsec. (j) relating to credit for non-Federal share.

Subsec. (k). Pub. L. 105–178, §1115(f)(1), as added by Pub. L. 105–206, §9002(i), redesignated subsec. (j), relating to use of Federal land management agency funds, as (k). Former subsec. (k) redesignated (*l*).

Pub. L. 105–178, §1115(a), added subsec. (k).

Subsec. (*l*). Pub. L. 105–178, §1115(f)(1), as added by Pub. L. 105–206, §9002(i), redesignated subsec. (k) as (*l*).

1996—Subsec. (c). Pub. L. 104–205 inserted ''rail-highway crossing closure,'' after ''carpooling and vanpooling,''.

1995—Subsec. (c). Pub. L. 104–59 inserted ''safety rest areas,'' after ''signalization,'' and inserted sentence at end defining ''safety rest area''.

1991—Subsecs. (a) to (c). Pub. L. 102–240, §1021(a), added subsecs. (a) to (c) and struck out former subsec. (a) which contained provisions relating to Federal share of Federal-aid primary, secondary and urban system projects, former subsec. (b) which contained provisions relating to Federal share of Interstate System projects financed with funds authorized to be appropriated prior to June 29, 1956, and former subsec. (c) which contained provisions relating to Federal share of Interstate System projects financed with funds made available under section 108(b) of the Federal-Aid Highway Act of 1956.

Subsec. (d). Pub. L. 102–240, §1022(a), which directed the substitution of ''180 days'' for ''90 days'' in subsec. (d) as redesignated, could not be executed because the phrase ''90 days'' does not appear in subsec. (d) as redesignated.

Pub. L. 102–240, §1021(b)(3), which directed the substitution of ''and (b)'' for ''and (c)'' in subsec. (d) as redesignated, could not be executed because the phrase ''and (c)'' does not appear in subsec. (d) as redesignated.

Pub. L. 102–240, §1021(a), (b)(2), redesignated subsec. (e) as (d) and struck out former subsec. (d) which related to Federal share for projects for railway-highway crossing elimination, traffic control signalization, pavement marking, carpooling and vanpooling, and installation of traffic signs, highway lights, guardrails, and impact attenuators.

Subsec. (e). Pub. L. 102–240, §1021(b)(2), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsecs. (f) to (h). Pub. L. 102–240, §1021(b)(2), redesignated subsecs. (g) to (i) as (f) to (h), respectively. Former subsec. (f) redesignated (e).

Subsec. (i). Pub. L. 102–240, §1021(b)(2), redesignated subsec. (n) as (i). Former subsec. (i) redesignated (h).

Subsecs. (j) to (m). Pub. L. 102–240, §1021(b)(1), struck out subsec. (j) which related to Federal share of project financed under section 307(c) of this title, subsec. (k) which related to Federal share of projects under sections 143 and 155 of this title and projects for priority primary routes under section 147 of this title, subsec. (*l*) which related to Federal share of projects to reconstruct, resurface, restore and rehabilitate highways which incurred substantial use as result of transportation activities to meet national energy requirements, and subsec. (m) which related to Federal share of Great River Road projects under section 148 of this title.

Subsec. (n). Pub. L. 102–240, §1021(b)(2), redesignated subsec. (n) as (i).

1987—Subsec. (d). Pub. L. 100–17, §117(a), inserted ''or for installation of traffic signs, highway lights, guardrails, or impact attenuators'' after ''vanpooling''.

Subsec. (f). Pub. L. 100–17, §117(c)(1), inserted heading and amended first sentence generally. Prior to amendment, first sentence read as follows: ''The Federal share payable on account of any repair or reconstruction provided for by funds made available under section 125 of this title shall not exceed 100 per centum of the cost thereof: *Provided*, That the Federal share payable on account of any repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads may amount to 100 per centum of the cost thereof.''

Subsecs. (i), (j). Pub. L. 100–17, §117(b), redesignated subsec. (i) relating to Federal share payable on account of any project financed under section 307(c) of this title, as subsec. (j). Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 100–17, §117(b), (d)(1), redesignated former subsec. (j) as (k) and substituted ''(j)'' for ''(i)'', ''and 155'' for '', 148, and 155,'' and ''100–3'' for ''97–61''. Former subsec. (k) redesignated (*l*).

Subsec. (*l*). Pub. L. 100–17, §117(b), redesignated former subsec. (k) as (*l*).

Subsec. (m). Pub. L. 100–17, §117(d)(2), added subsec. (m).

Subsec. (n). Pub. L. 100–17, §117(e), added subsec. (n).

1983—Subsec. (j). Pub. L. 98–78 inserted '', and for funds allocated under the provisions of section 155 of this title and obligated subsequent to January 6, 1983,'' after ''Representatives''.

1983—Subsec. (c). Pub. L. 97–424, §117(a), inserted provision at end that, notwithstanding subsection (a) of this section, the Federal share payable on account of any project financed with primary funds on the Interstate System for resurfacing, restoring, rehabilitating, and reconstructing shall be the percentage provided in this subsection.

Subsec. (d). Pub. L. 97–424, §117(b), inserted ''or for pavement marking'' after ''signalization'', and provision that the Federal share payable on account of any project for traffic control signalization under section 103(e)(4) of this title may amount to 100 per centum of the cost of construction of such project.

Pub. L. 97–424, §123(a), inserted ''or for commuter carpooling and vanpooling'' before '', may amount to 100 per centum''.

Subsec. (f). Pub. L. 97–424, §153(f), substituted ''100 per centum'' for ''75 per centum'' after ''shall not exceed'', struck out provision that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved)

exclusive of national forests and national parks and monuments exceeding 5 per centum of the total area of all lands therein, the Federal share would be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area, struck out ", whether or not such highways, roads, or trails are on any Federal-aid highway system" after "may amount to 100 per centum of the cost thereof", substituted provision that the total cost of a project may not exceed the cost of repair or reconstruction of a comparable facility for provision that the Secretary might increase the Federal share payable on account of any repair or reconstruction under this section up to 100 per centum of the replacement cost of a comparable facility if he determined it to be in the public interest, and struck out provision that any project agreement for which the final voucher had not been approved by the Secretary on or before the date of this Act might be modified to provide for the Federal share authorized herein.

Subsec. (i). Pub. L. 97–424, §156(c), added subsec. (i) relating to Federal share payable for any project financed under section 307(c) of this title.

Subsec. (j). Pub. L. 97–424, §117(c), added subsec. (j).

Subsec. (k). Pub. L. 97–424, §109(b), added subsec. (k).

1978—Subsec. (a). Pub. L. 95–599, §129(a), substituted "75 per centum" for "70 per centum" wherever appearing.

Subsec. (d). Pub. L. 95–599 §§117, 129(b), inserted "and for any project for traffic control signalization," after "section 130 of this title,", and substituted "75 per centum" for "70 per centum."

Subsec. (f). Pub. L. 95–599, §129(c), substituted "75 per centum" for "70 per centum" wherever appearing.

Subsec. (i). Pub. L. 95–599, §129(i), added subsec. (i) relating to Federal share payable for any project in the Virgin Islands, etc.

1970—Subsec. (a). Pub. L. 91–605, §§106(f), 108(a), inserted reference to the Federal-aid urban system, and substituted "70 per centum" for "50 per centum" in two places.

Subsec. (d). Pub. L. 91–605, §108(a), substituted "70 per centum" for "50 per centum".

Subsec. (f). Pub. L. 91–605, §§108(a), 109(b), inserted definition of "a comparable facility" and substituted "70 per centum" for "50 per centum".

Subsec. (h). Pub. L. 91–605, §128, added subsec. (h).

1968—Subsec. (a). Pub. L. 90–495, §34, made provision for an election by the States as to the formula it desired to have its Federal share computed under by adding an optional formula permitting an increase in the Federal share by a percentage of the remaining cost equal to the percentage that the area of specified lands is of the State's total, but not so as to increase the share beyond 95 percent of the total cost of the project, with States exercising the option required to enter into an agreement to use the difference solely for highway construction purposes.

Subsec. (f). Pub. L. 90–495, §27(b), authorized the Secretary to increase the Federal share payable on account of any repair or reconstruction under this section up to 100 per centum of the replacement cost of a comparable facility if he determines that it is in the public interest.

1966—Subsec. (f). Pub. L. 89–574 added parkways, public land highways, public lands development roads, and trails to the list of road projects on the repair or reconstruction of which the Federal share payable may amount to 100 per centum of the cost.

1964—Subsec. (f). Pub. L. 88–658 provided that in case of any State containing nontaxable Indian lands, and public domain lands exclusive of national forests and national parks and monuments exceeding 5 per centum of the total area of all lands therein, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State, is of its total area.

1960—Subsec. (a). Pub. L. 86–657 substituted "nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments" for "unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal".

1959—Subsec. (a). Pub. L. 86–70, §21(e)(4), substituted "subsection (d) of this section" for "subsections (d) and (h) of this section".

Subsec. (f). Pub. L. 86–342 provided that the Federal share payable on account of any repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, and Indian reservation roads may amount to 100 per centum of the cost thereof, whether or not such highways, roads or trails are on any Federal-aid highway system.

Subsec. (h). Pub. L. 86–70, §21(d)(4), repealed subsec. (h) which related to contributions by the Territory of Alaska and to the expenditure of Federal funds apportioned to the Territory of Alaska and funds contributed by the Territory.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 1021 of Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

Section 1022(c) of Pub. L. 102–240 provided that: "The amendments made by subsections (a) and (b) [amending this section and section 125 of this title] shall only apply to natural disasters and catastrophic failures occurring after the date of the enactment of this Act [Dec. 18, 1991]."

EFFECTIVE DATE OF 1987 AMENDMENT

Section 117(c)(2) of Pub. L. 100–17 provided that: "The amendment made by paragraph (1) [amending this section] shall apply to all natural disasters and catastrophic failures which occur after the date of the enactment of this Act [Apr. 2, 1987]."

EFFECTIVE DATE OF 1978 AMENDMENT

Section 129(h) of Pub. L. 95–599 provided that: "The amendments made by subsections (a) through (g) of this section [amending this section and sections 148, 155, 215, and 406 of this title] shall take effect with respect to obligations incurred after the date of enactment of this section [Nov. 6, 1978]."

EFFECTIVE DATE OF 1970 AMENDMENT

Section 108(b) of Pub. L. 91–605, as amended by Pub. L. 93–87, title I, §153, Aug. 13, 1973, 87 Stat. 276, provided that: "The amendments made by subsection (a) of this section [amending this section] shall take effect with respect to all obligations incurred after June 30, 1973."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by section 27(b) of Pub. L. 90–495 applicable to repair or construction with respect to which project agreements have been entered into on or before Jan. 1, 1968, see section 27(c) of Pub. L. 90–495, set out as a note under section 125 of this title.

Amendment by section 34 of Pub. L. 90–495 effective Aug. 23, 1968, see section 37 of Pub. L. 90–495, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by section 21(d)(4) of Pub. L. 86–70 effective July 1, 1959, see section 21(d) of Pub. L. 86–70, set out as a note under section 103 of this title.

Amendment by section 21(e)(4) of Pub. L. 86–70 effective July 1, 1959, see section 12(e) of Pub. L. 86–70, set out as a note under section 101 of this title.

CREDIT FOR NON-FEDERAL SHARE

Section 1044 of Pub. L. 102–240 provided that:

''(a) ELIGIBILITY.—A State may use as a credit toward the non-Federal matching share requirement for all programs under this Act [see Short Title of 1991 Amendment note set out under section 101 of Title 49, Transportation] and title 23, United States Code, toll revenues that are generated and used by public, quasi-public and private agencies to build, improve, or maintain highways, bridges, or tunnels that serve the public purpose of interstate commerce. Such public, quasi-public or private agencies shall have built, improved, or maintained such facilities without Federal funds.

''(b) MAINTENANCE OF EFFORT.—The credit for any non-Federal share shall not reduce nor replace State monies required to match Federal funds for any program pursuant to this Act or title 23, United States Code. In receiving a credit for non-Federal capital expenditures under this section, a State shall enter into such agreements as the Secretary may require to ensure that such State will maintain its non-Federal transportation capital expenditures at or above the average level of such expenditures for the preceding three fiscal years.

''(c) TREATMENT.—Use of such credit for a non-Federal share shall not expose such agencies from which the credit is received to additional liability, additional regulation or additional administrative oversight. When credit is applied from chartered multi-State agencies, such credit shall be applied equally to all charter States. The public, quasi-public, and private agencies from which the credit for which the non-Federal share is calculated shall not be subject to any additional Federal design standards, laws or regulations as a result of providing non-Federal match other than those to which such agency is already subject.''

TEMPORARY MATCHING FUND WAIVER

Section 1054 of title I of Pub. L. 102–240 provided that:

''(a) WAIVER OF MATCHING SHARE.—Notwithstanding any other provision of law, the Federal share of any qualifying project approved by the Secretary under title 23, United States Code, and of any qualifying project for which the United States becomes obligated to pay under title 23, United States Code, during the period beginning on October 1, 1991, and ending September 30, 1993, shall be the percentage of the construction cost as the State requests, up to and including 100 percent.

''(b) REPAYMENT.—The total amount of increases in the Federal share made pursuant to subsection (a) for any State shall be repaid to the United States by the State on or before March 30, 1994. Payments shall be deposited in the Highway Trust Fund and repaid amounts shall be credited to the appropriate apportionment accounts of the State.

''(c) DEDUCTION FROM APPORTIONMENTS.—If a State has not made the repayment as required by subsection (b), the Secretary shall deduct from funds apportioned to the State under title 23, United States Code, in each of the fiscal years 1995 and 1996, a pro rata share of each category of apportioned funds. The amount which shall be deducted in each fiscal year shall be equal to 50 percent of the amount needed for repayment. Any amount deducted under this subsection shall be reapportioned for fiscal years 1995 and 1996 in accordance with title 23, United States Code, to those States which have not received a higher Federal share under this section and to those States which have made the repayment required by subsection (b).

''(d) QUALIFYING PROJECT DEFINED.—For purposes of this section, the term 'qualifying project' means a project approved by the Secretary after the effective date of this title [Dec. 18, 1991], or a project for which the United States becomes obligated to pay after such effective date, and for which the Governor of the State submitting the project has certified, in accordance with regulations established by the Secretary, that sufficient funds are not available to pay the cost of the non-Federal share of the project.''

INCENTIVE PROGRAM FOR USE OF COAL ASH

Section 117(f) of Pub. L. 100–17 provided that: ''Notwithstanding sections 119, 120, and 144 of title 23, United States Code, in each of fiscal years 1987, 1988, 1989, 1990, and 1991, the percentage specified in such sections as the Federal share of the cost payable on account of any highway or bridge construction project in which materials produced from coal ash are used in significant amounts shall be increased by adding 5 percent to such percentage; except that in no case shall the Federal share payable on account of any project exceed 95 percent of the cost of such project as a result of increasing such Federal share under this subsection.''

OBLIGATIONS FOR PROJECTS RESULTING FROM NATURAL DISASTERS OR CATASTROPHIC FAILURES; EMERGENCY RELIEF; FEDERAL SHARE

Section 153(g) of Pub. L. 97–424 provided that: ''All obligations for projects resulting from a natural disaster or catastrophic failure which the Secretary finds to be eligible for emergency relief subsequent to the date of enactment of this subsection [Jan. 6, 1983] shall provide for the Federal share required by subsection (f) of section 120 of title 23, United States Code, as amended by this section.''

FEDERAL SHARE OF PROJECTS APPROVED DURING PERIOD BEGINNING FEBRUARY 12, 1975, AND ENDING SEPTEMBER 30, 1975

Pub. L. 94–30, §§1, 2, June 4, 1975, 89 Stat. 171, as amended by Pub. L. 94–280, title I, §145, May 5, 1976, 90 Stat. 446, provided for Federal share of projects approved under section 106(a) of this title, and projects for which United States becomes obligated under section 117 of this title during the period beginning Feb. 12, 1975, and ending Sept. 30, 1975, and repayment schedule for States from Jan. 1, 1977, through Jan. 1, 1979.

REVIEW AND ANALYSIS OF EXCISE TAXES DEDICATED TO HIGHWAY TRUST FUND

Section 507 of Pub. L. 95–599 provided that:

''(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary of Transportation and the staff of the Joint Committee on Taxation, shall—

''(1) review and analyze each excise tax now dedicated to the Highway Trust Fund with respect to such factors as ease or difficulty of administration of such tax and the compliance burdens imposed on taxpayers by such tax, and

''(2) on or before April 15, 1982, report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate as to the matters set forth in paragraph (1) and other findings, as well as recommendations on—

''(A) improvements in excise taxation which would enhance tax administration, equity, and compliance, or

''(B) a new system of raising revenues to fund the Highway Trust Fund which would meet the objectives set forth in subparagraph (A).

The recommendations described in paragraph (2) shall be formulated in conjunction with the recommendations of the cost allocation study under section 506 set out as note under section 307 of this title of the equitable distribution of the highway excise taxes.

''(b) INTERIM REPORTS.—The Secretary of the Treasury, in consultation with the Secretary of Transportation and the staff of the Joint Committee on Taxation, shall file an interim report with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on or before April 15, 1980, and a second interim report on or before April 15, 1981.''

HIGHWAY TRUST FUND

Section 209 of act June 29, 1956, ch. 462, title II, 70 Stat. 397, as amended by Pub. L. 86–342, title II, §202, Sept. 21, 1959, 73 Stat. 615; Pub. L. 86–346, title I, §104(5), Sept. 22, 1959, 73 Stat. 622; Pub. L. 86–440, §1(c), Apr. 22, 1960, 74 Stat. 81; Pub. L. 87–61, title II, §207, June 29, 1961, 75 Stat. 128; Pub. L. 88–578, title II, §202, Sept. 3, 1964, 78 Stat. 904; Pub. L. 89–44, title II, §210, title VIII, §809(e), June 21, 1965, 79 Stat. 144, 168; Pub. L. 91–258, title II, §§207(e), 208(g), May 21, 1970, 84 Stat. 249, 252; Pub. L. 91–605, title III, §301, Dec. 31, 1970, 84 Stat. 1743; Pub. L. 94–273, §18, Apr. 21, 1976, 90 Stat. 379; Pub. L. 94–280, title III, §301, May 5, 1976, 90 Stat. 456; Pub. L. 95–599, title V, §§503(a), 504(a), Nov. 6, 1978, 92 Stat. 2757; Pub. L. 95–618, title II, §233(b)(2)(E), Nov. 9, 1978, 92 Stat. 3191; Pub. L. 96–451, title II, §203(a), Oct. 14, 1980, 94 Stat. 1988; Pub. L. 97–424, title V, §531(b), Jan. 6, 1983, 96 Stat. 2191; Pub. L. 97–449, §2(a), Jan. 12, 1983, 96 Stat. 2439, provided that:

''(a) [Repealed. Pub. L. 97–424, title V, §531(b), Jan. 6, 1983, 96 Stat. 2191. Subsec. (a) provided for the creation of a Highway Trust Fund.]

''(b) DECLARATION OF POLICY.—It is hereby declared to be the policy of the Congress that if it hereafter appears—

''(1) that the total receipts of the Trust Fund (exclusive of advances under subsection (d) will be less than the total expenditures from such Fund (exclusive of repayments of such advances); or

''(2) that the distribution of the tax burden among the various classes of persons using the Federal-aid highways, or otherwise deriving benefits from such highways, is not equitable, the Congress shall enact legislation in order to bring about a balance of total receipts and total expenditures, or such equitable distribution, as the case may be.

''(c) to (g) [Repealed. Pub. L. 97–424, title V, §531(b), Jan. 6, 1983, 96 Stat. 2191. Subsecs. (c) to (g) provided generally for the transfer of the equivalent of the receipts of certain taxes to the Fund, for additional appropriations to the Fund, for its management, methods and purposes of expenditures, and for adjustment of apportionments regarding the Fund.]''

Section 203(b) of Pub. L. 96–451 provided that: ''The amendment made by subsection (a) [amending former subsec. (f)(5) of section 209 of Act June 29, 1956] shall apply to taxes received on or after October 1, 1980.''

Section 504(b) of Pub. L. 95–599 provided that: ''The amendment made by subsection (a) [amending former subsec. (g) of section 209 of Act June 29, 1956] shall apply to fiscal years beginning after September 30, 1978.''

Pub. L. 91–258, title II, §208(g), May 21, 1970, 84 Stat. 252, which added subsec. (c)(5) of section 209 of the Act of June 29, 1956, ch. 462, title II, 70 Stat. 397, was repealed by Pub. L. 97–248, title II, §281(b), Sept. 3, 1982, 96 Stat. 566.

PERCENTAGE OF FUNDS CONTRIBUTED BY ALASKA

Section 21(d)(4) of Pub. L. 86–70, which repealed subsec. (h) of this section, provided in part that the provisions of subsec. (h) relating to the percentage of funds to be contributed by Alaska shall continue to apply to funds apportioned to Alaska for fiscal year 1960 and prior fiscal years.

§121. Payment to States for construction

(a) IN GENERAL.—The Secretary, from time to time as the work progresses, may make payments to a State for costs of construction incurred by the State on a project. Such payments may also be made for the value of the materials—

(1) that have been stockpiled in the vicinity of the construction in conformity to plans and specifications for the projects; and

(2) that are not in the vicinity of the construction if the Secretary determines that because of required fabrication at an off-site location the material cannot be stockpiled in such vicinity.

(b) PROJECT AGREEMENT.—No payment shall be made under this chapter except for a project covered by a project agreement. After completion of the project in accordance with the project agreement, a State shall be entitled to payment out of the appropriate sums apportioned or allocated to the State of the unpaid balance of the Federal share payable for such project.

(c) Such payments shall be made to such official or officials or depository as may be designated by the State transportation department and authorized under the laws of the State to receive public funds of the State.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 899; Pub. L. 88–157, §7(b), Oct. 24, 1963, 77 Stat. 278; Pub. L. 93–87, title I, §117, Aug. 13, 1973, 87 Stat. 259; Pub. L. 94–280, title I, §118(a), May 5, 1976, 90 Stat. 437; Pub. L. 100–17, title I, §133(b)(6), Apr. 2, 1987, 101 Stat. 171; Pub. L. 102–240, title I, §1018(b), Dec. 18, 1991, 105 Stat. 1948; Pub. L. 105–178, title I, §§1212(a)(2)(A)(i), 1302, June 9, 1998, 112 Stat. 193, 226.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–178, §1302(1), added subsec. (a) and struck out former subsec. (a) which read as follows: ''The Secretary may, in his discretion, from time to time as the work progresses, make payments to a State for costs of construction incurred by it on a project. These payments shall at no time exceed the Federal share of the costs of construction incurred to the date of the voucher covering such payment plus the Federal share of the value of the materials which have been stockpiled in the vicinity of such construction in conformity to plans and specifications for the project. Such payments may also be made in the case of any such materials not in the vicinity of such construction if the Secretary determines that because of required fabrication at an off-site location the materials cannot be stockpiled in such vicinity.''

Subsec. (b). Pub. L. 105–178, §1302(1), added subsec. (b) and struck out former subsec. (b) which read as follows: ''After completion of a project in accordance with the plans and specifications, and approval of the final voucher by the Secretary, a State shall be entitled to payment out of the appropriate sums apportioned to it of the unpaid balance of the Federal share payable on account of such project.''

Subsec. (c). Pub. L. 105–178, §1302(2), (3), redesignated subsec. (e) as (c) and struck out former subsec. (c) which read as follows: ''No payment shall be made under this chapter, except for a project located on a Federal-aid system and covered by a project agreement. No final payment shall be made to a State for its costs of construction of a project until the completion of the construction has been approved by the Secretary following inspections pursuant to section 114(a) of this title.''

Subsec. (d). Pub. L. 105–178, §1302(2), struck out subsec. (d) which read as follows: ''In making payments pursuant to this section, the Secretary shall be bound

by the limitations with respect to the permissible amounts of such payments continued in sections 106(c), 120, and 130 of this title.''

Subsec. (e). Pub. L. 105–178, § 1302(3), redesignated subsec. (e) as (c).

Pub. L. 105–178, § 1212(a)(2)(A)(i), substituted ''State transportation department'' for ''State highway department''.

1991—Subsec. (d). Pub. L. 102–240 substituted ''106(c), 120,'' for ''120'' and struck out at end ''Payments for construction engineering on any project financed with Federal-aid highway funds shall not exceed 15 percent of the Federal share of the cost of construction of such project after excluding from the cost of construction the costs of rights-of-way, preliminary engineering, and construction engineering.''

1987—Subsec. (d). Pub. L. 100–17 substituted ''15 percent'' for ''10 per centum'' and struck out at end ''However, this limitation shall be 15 per centum in any State with respect to which the Secretary finds such higher limitation to be necessary.''

1976—Subsec. (d). Pub. L. 94–280 substituted ''Federal-aid highway funds'' for ''Federal-aid primary, secondary, or urban funds'' and struck out 10 per centum limitation provision for any project financed with interstate funds.

1973—Subsec. (a). Pub. L. 93–87 authorized payments to be made for materials not in the construction vicinity where the Secretary determines that because of required fabrication at an off-site location the materials cannot be stockpiled in such vicinity.

1963—Subsec. (d). Pub. L. 88–157 substituted ''any project financed with Federal-aid primary, secondary, or urban funds'' for ''any one project'' and provided for limitation, on payments for construction engineering on projects financed with Federal-aid primary, secondary, or urban funds, of 15 percent of Federal share of cost of construction of the project where found by the Secretary to be necessary and for 10–percent limitation on projects financed with interstate funds.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

SUBMISSION OF RECOMMENDATIONS TO CONGRESS FOR REIMBURSEMENT OF STATES FOR CERTAIN HIGHWAYS

Pub. L. 85–845, Aug. 28, 1958, 72 Stat. 1083, required Secretary of Commerce, within ten days after first day of first session of Eighty-sixth Congress, to submit to Congress recommendations for legislation for purpose of assisting Congress to determine whether or not to reimburse each State of any portion of a toll or free highway (1) which was on National System of Interstate and Defense Highways [now Dwight D. Eisenhower System of Interstate and Defense Highways], (2) which met standards required by Federal-Aid Highway Act of 1956 for such System of Interstate and Defense Highways, and (3) construction of which had been completed since Aug. 2, 1947, or which had been in actual use or under construction by contract, for completion, awarded not later than June 30, 1957.

§ 122. Payments to States for bond and other debt instrument financing

(a) DEFINITION OF ELIGIBLE DEBT FINANCING INSTRUMENT.—In this section, the term ''eligible debt financing instrument'' means a bond or other debt financing instrument, including a note, certificate, mortgage, or lease agreement, issued by a State or political subdivision of a State or a public authority, the proceeds of which are used for an eligible project under this title.

(b) FEDERAL REIMBURSEMENT.—Subject to subsections (c) and (d), the Secretary may reimburse a State for expenses and costs incurred by the State or a political subdivision of the State and reimburse a public authority for expenses and costs incurred by the public authority for—

(1) interest payments under an eligible debt financing instrument;

(2) the retirement of principal of an eligible debt financing instrument;

(3) the cost of the issuance of an eligible debt financing instrument;

(4) the cost of insurance for an eligible debt financing instrument; and

(5) any other cost incidental to the sale of an eligible debt financing instrument (as determined by the Secretary).

(c) CONDITIONS ON PAYMENT.—The Secretary may reimburse a State or public authority under subsection (b) with respect to a project funded by an eligible debt financing instrument after the State or public authority has complied with this title with respect to the project to the extent and in the manner that would be required if payment were to be made under section 121.

(d) FEDERAL SHARE.—The Federal share of the cost of a project payable under this section shall not exceed the Federal share of the cost of the project as determined under section 120.

(e) STATUTORY CONSTRUCTION.—Notwithstanding any other provision of law, the eligibility of an eligible debt financing instrument for reimbursement under subsection (b) shall not—

(1) constitute a commitment, guarantee, or obligation on the part of the United States to provide for payment of principal or interest on the eligible debt financing instrument; or

(2) create any right of a third party against the United States for payment under the eligible debt financing instrument.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 900; Pub. L. 95–599, title I, § 115(b), Nov. 6, 1978, 92 Stat. 2698; Pub. L. 97–424, title I, § 107(f), Jan. 6, 1983, 96 Stat. 2103; Pub. L. 100–17, title I, § 133(b)(7), Apr. 2, 1987, 101 Stat. 171; Pub. L. 104–59, title III, § 311(a), Nov. 28, 1995, 109 Stat. 583.)

AMENDMENTS

1995—Pub. L. 104–59 amended section generally, substituting present provisions for provisions which authorized States to use portion of Federal highway payments to retire principal of bonds proceeds of which were used for certain Federal highway projects.

1987—Pub. L. 100–17 inserted ''or for substitute highway projects approved under section 103(e)(4) of this title'' before ''and the retirement'' in first sentence.

1983—Pub. L. 97–424 inserted ''or for substitute highway projects approved under section 103(e)(4) of this title,'' after ''highway systems in urban areas,'' and ''or on highway projects approved under section 103(e)(4) of this title'' after ''expenditure on such system''.

1978—Pub. L. 95–599 inserted provisions relating to the retirement of bonds the proceeds of which were used for program projects, provisions that section was not to be construed as a commitment on the part of the United States to pay the principal of any such bonds, and provisions prohibiting inclusion of interest and incidental costs of bonds in estimated cost of completion.

PAYMENT OF INTEREST ON BONDS ISSUED PRIOR TO AND AFTER NOVEMBER 6, 1978

Section 115(c) of Pub. L. 95–599 provided that: ''No interest shall be paid under authority of section 122 of

title 23, United States Code, on any bonds issued prior to the date of enactment of this Act [Nov. 6, 1978], unless such bonds were issued for projects which were under construction on January 1, 1978. Interest on bonds issued in any fiscal year by a State after the date of enactment of this Act may be paid under authority of section 122 of title 23, United States Code, only if (1) such State was eligible to obligate funds of another State under subsection (a) of this section during such fiscal year and (2) the Secretary of Transportation certifies that such eligible State utilized, or will utilize, to the fullest extent possible during such fiscal year its authority to obligate funds under such subsection (a) of this section [amending section 118(b) of this title]. No interest shall be paid under section 122 of title 23, United States Code, on that part of the proceeds of bonds issued after the date of enactment of this Act used to retire or otherwise refinance bonds issued prior to such date.''

§ 123. Relocation of utility facilities

(a) When a State shall pay for the cost of relocation of utility facilities necessitated by the construction of a project on any Federal-aid system, Federal funds may be used to reimburse the State for such cost in the same proportion as Federal funds are expended on the project. Federal funds shall not be used to reimburse the State under this section when the payment to the utility violates the law of the State or violates a legal contract between the utility and the State. Such reimbursement shall be made only after evidence satisfactory to the Secretary shall have been presented to him substantiating the fact that the State has paid such cost from its own funds with respect to Federal-aid highway projects for which Federal funds are obligated subsequent to April 16, 1958, for work, including relocation of utility facilities.

(b) The term ''utility'', for the purposes of this section, shall include publicly, privately, and cooperatively owned utilities.

(c) The term ''cost of relocation'', for the purposes of this section, shall include the entire amount paid by such utility properly attributable to such relocation after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 900; Pub. L. 100–17, title I, § 133(b)(8), Apr. 2, 1987, 101 Stat. 171.)

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–17 substituted ''any Federal-aid system,'' for ''the Federal-aid primary or secondary systems or on the Interstate System, including extensions thereof within urban areas,''.

STUDY OF PROCUREMENT PRACTICES AND PROJECT DELIVERY

Pub. L. 105–178, title I, § 1213(e), June 9, 1998, 112 Stat. 201, provided that:

''(1) STUDY.—The Comptroller General shall conduct a study to assess the impact that a utility company's failure to relocate its facilities in a timely manner has on the delivery and cost of Federal-aid highway and bridge projects. The study shall also assess the following:

''(A) Methods States use to mitigate such delays, including the use of the courts to compel cooperation.

''(B) The prevalence and use of incentives to utility companies for early completion of utility relocations on Federal-aid transportation project sites and, conversely, penalties assessed on utility companies for utility relocation delays on such projects.

''(C) The extent to which States have used available technologies, such as subsurface utility engineering, early in the design of Federal-aid highway and bridge projects so as to eliminate or reduce the need for or delays due to utility relocations.

''(D) Whether individual States compensate transportation contractors for business costs incurred by the contractors when Federal-aid highway and bridge projects under contract to them are delayed by utility-company-caused delays in utility relocations and any methods used by States in making any such compensation.

''(2) REPORT.—Not later than 1 year after the date of enactment of this Act [June 9, 1998], the Comptroller General shall transmit to Congress a report on the results of the study with any recommendations the Comptroller General determines appropriate as a result of the study.''

§ 124. Advances to States

If the Secretary shall determine that it is necessary for the expeditious completion of projects on any of the Federal-aid systems, including the Interstate System, he may advance to any State out of any existing appropriations the Federal share of the cost of construction thereof to enable the State transportation department to make prompt payments for acquisition of rights-of-way, and for the construction as it progresses. The sums so advanced shall be deposited in a special revolving trust fund, by the State official authorized under the laws of the State to receive Federal-aid highway funds, to be disbursed solely upon vouchers approved by the State transportation department for rights-of-way which have been or are being acquired, and for construction which has been actually performed and approved by the Secretary pursuant to this chapter. Upon determination by the Secretary that any part of the funds advanced to any State under the provisions of this section are no longer required, the amount of the advance, which is determined to be in excess of current requirements of the State, shall be repaid upon his demand, and such repayments shall be returned to the credit of the appropriation from which the funds were advanced. Any sum advanced and not repaid on demand shall be deducted from sums due the State for the Federal pro rata share of the cost of construction of Federal-aid projects.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 901; Pub. L. 95–599, title I, § 118, Nov. 6, 1978, 92 Stat. 2699; Pub. L. 105–178, title I, §§ 1212(a)(2)(A)(i), 1226(c), June 9, 1998, 112 Stat. 193; Pub. L. 105–206, title IX, § 9003(a), July 22, 1998, 112 Stat. 837.)

AMENDMENTS

1998—Pub. L. 105–178, § 1226(c), as added by Pub. L. 105–206, § 9003(a), struck out subsec. (a) designation before ''If the Secretary'' and struck out subsec. (b), which had: authorized advance of 100 per centum of cost of construction where Secretary determined that toll bridge, toll tunnel, or approach thereto meeting section 129 requirements was necessary to complete essential gap in Interstate System; provided repayment schedule; and directed that advance be made from funds apportioned to State for Interstate System and that section 103(e)(4) provisions would not apply.

Pub. L. 105–178, § 1212(a)(2)(A)(i), substituted ''State transportation department'' for ''State highway department'' in two places.

1978—Pub. L. 95–599 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of this title.

ACCELERATION OF PROJECTS

Pub. L. 94–280, title I, § 141, May 5, 1976, 90 Stat. 444, as amended by Pub. L. 95–599, title I, § 136, Nov. 6, 1978, 92 Stat. 2709, provided that: ''Not later than six months after the completion of such project, the Secretary of Transportation shall submit a report to Congress which includes, but is not limited to, a description of the methods used to reduce the time necessary for the completion of such project, recommendations for applying such methods to other highway projects, and any changes which may be necessary to existing law to permit further reductions in the time necessary to complete highway projects.''

§ 125. Emergency relief

(a) GENERAL ELIGIBILITY.—Subject to this section and section 120, an emergency fund is authorized for expenditure by the Secretary for the repair or reconstruction of highways, roads, and trails, in any part of the United States, including Indian reservations, that the Secretary finds have suffered serious damage as a result of—

(1) natural disaster over a wide area, such as by a flood, hurricane, tidal wave, earthquake, severe storm, or landslide; or

(2) catastrophic failure from any external cause.

(b) RESTRICTION ON ELIGIBILITY.—In no event shall funds be used pursuant to this section for the repair or reconstruction of bridges that have been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to a structural deficiency or physical deterioration.

(c) FUNDING.—Subject to the following limitations, there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to establish the fund authorized by this section and to replenish it on an annual basis:

(1) Not more than $100,000,000 is authorized to be obligated in any 1 fiscal year commencing after September 30, 1980, to carry out the provisions of this section; except that, if in any fiscal year the total of all obligations under this section is less than the amount authorized to be obligated in such fiscal year, the unobligated balance of such amount shall remain available until expended and shall be in addition to amounts otherwise available to carry out this section each year.

(2) Pending such appropriation or replenishment, the Secretary may obligate from any funds heretofore or hereafter appropriated for obligation in accordance with this title, including existing Federal-aid appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized. Funds obligated under this paragraph shall be reimbursed from such appropriation or replenishment.

(d) The Secretary may expend funds from the emergency fund herein authorized for the repair or reconstruction of highways on Federal-aid highways in accordance with the provisions of this chapter: *Provided*, That (1) obligations for projects under this section, including those on highways, roads, and trails mentioned in subsection (e) of this section, resulting from a single natural disaster or a single catastrophic failure in a State shall not exceed $100,000,000, and (2) the total obligations for projects under this section in any fiscal year in the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not exceed $20,000,000. Notwithstanding any provision of this chapter actual and necessary costs of maintenance and operation of ferryboats providing temporary substitute highway traffic service, less the amount of fares charged, may be expended from the emergency fund herein authorized on Federal-aid highways. Except as to highways, roads, and trails mentioned in subsection (e) of this section, no funds shall be so expended unless the Secretary has received an application therefor from the State transportation department, and unless an emergency has been declared by the Governor of the State and concurred in by the Secretary, except that if the President has declared such emergency to be a major disaster for the purposes of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) concurrence of the Secretary is not required.

(e) The Secretary may expend funds from the emergency fund herein authorized, either independently or in cooperation with any other branch of the Government, State agency, organization, or person, for the repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads, whether or not such highways, roads, or trails are Federal-aid highways.

(f) TREATMENT OF TERRITORIES.—For purposes of this section, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be considered to be States and parts of the United States, and the chief executive officer of each such territory shall be considered to be a Governor of a State.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 901; Pub. L. 86–342, title I, § 107(a), Sept. 21, 1959, 73 Stat. 612; Pub. L. 89–574, § 9(b), (c), Sept. 13, 1966, 80 Stat. 769; Pub. L. 90–495, § 27(a), Aug. 23, 1968, 82 Stat. 829; Pub. L. 91–605, title I, § 109(a), Dec. 31, 1970, 84 Stat. 1718; Pub. L. 92–361, Aug. 3, 1972, 86 Stat. 503; Pub. L. 94–280, title I, § 119, May 5, 1976, 90 Stat. 437; Pub. L. 95–599, title I, § 119, Nov. 6, 1978, 92 Stat. 2700; Pub. L. 96–106, § 19, Nov. 9, 1979, 93 Stat. 799; Pub. L. 97–424, title I, § 153(a), (c), (d), (h), Jan. 6, 1983, 96 Stat. 2132, 2133; Pub. L. 99–190, § 101(e) [title III, § 334], Dec. 19, 1985, 99 Stat. 1267, 1290; Pub. L. 99–272, title IV, § 4103, Apr. 7, 1986, 100 Stat. 114; Pub. L. 100–17, title I, §§ 118(a)(1), (b)(1), (2), 133(b)(9), Apr. 2, 1987, 101 Stat. 156, 171; Pub. L. 100–707, § 109(k), Nov. 23, 1988, 102 Stat. 4709; Pub. L. 102–240, title I, § 1022(b), Dec. 18,

1991, 105 Stat. 1951; Pub. L. 102–302, §101, June 22, 1992, 106 Stat. 252; Pub. L. 105–178, title I, §§1113(b), 1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 151, 193.)

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (d), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–178, §1113(b)(2), added subsec. (a) and struck out former subsec. (a) which authorized expenditures by Secretary from emergency fund for repair or reconstruction of highways, roads, or trails which have suffered serious damage from natural disasters or catastrophic failures from external sources, including provisions relating to restrictions on eligibility and funding.

Subsecs. (b), (c). Pub. L. 105–178, §1113(b)(1), (2), added subsecs. (b) and (c) and redesignated former subsecs. (b) and (c) as (d) and (e), respectively.

Subsec. (d). Pub. L. 105–178, §1212(a)(2)(A)(i), substituted ''State transportation department'' for ''State highway department''.

Pub. L. 105–178, §1113(b)(3), substituted ''reconstruction of highways on Federal-aid highways in accordance'' for ''reconstruction of highways on the Federal-aid highway systems, including the Interstate System, in accordance'' in first sentence, ''subsection (e) of this section'' for ''subsection (c) of this section'' in two places, ''authorized on Federal-aid highways'' for ''authorized on the Federal-aid highway systems, including the Interstate System'' before period at end of second sentence, and ''Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)'' for ''Disaster Relief and Emergency Assistance Act (Public Law 93–288)'' in third sentence.

Pub. L. 105–178, §1113(b)(1), redesignated subsec. (b) as (d). Former subsec. (d) redesignated (f).

Subsec. (e). Pub. L. 105–178, §1113(b)(4), substituted ''Federal-aid highways'' for ''on any of the Federal-aid highway systems'' before period at end.

Pub. L. 105–178, §1113(b)(1), redesignated subsec. (c) as (e).

Subsec. (f). Pub. L. 105–178, §1113(b)(1), redesignated subsec. (d) as (f).

1992—Subsec. (b). Pub. L. 102–302, which directed the substitution of ''on Federal-aid highways'' for ''on the Federal-aid highway systems including the Interstate System'' in two places, could not be executed because phrase ''on the Federal-aid highway systems including the Interstate System'' did not appear in text.

1991—Subsec. (b)(2). Pub. L. 102–240 substituted ''$20,000,000'' for ''$5,000,000''.

1988—Subsec. (b). Pub. L. 100–707 substituted ''and Emergency Assistance Act'' for ''Act of 1974''.

1987—Subsec. (b). Pub. L. 100–17, §133(b)(9)(A), substituted ''the Federal-aid highway systems, including the Interstate System'' for ''the Interstate System, the Primary System, and on any routes functionally classified as arterials or major collectors'' in two places.

Pub. L. 100–17, §118(a)(1), substituted ''in a State shall not exceed $100,000,000.'' for ''shall not exceed $30,000,000 ($55,000,000 for projects in connection with disasters or failures occurring in calendar year 1985) in any State.''

Pub. L. 100–17, §118(b)(2), designated existing provisions related to limitations placed upon obligations for projects under this section as cl. (1) and added cl. (2).

Subsec. (c). Pub. L. 100–17, §133(b)(9)(B), substituted ''on any of the Federal-aid highway systems'' for ''routes functionally classified as arterials or major collectors''.

Subsec. (d). Pub. L. 100–17, §118(b)(1), added subsec. (d).

1986—Subsec. (b). Pub. L. 99–272 inserted parenthetical provision allowing obligations not exceeding $55,000,000 for projects in connection with disasters or failures occurring in calendar year 1985.

1985—Pub. L. 99–190 amended section in manner substantially identical to amendment by Pub. L. 99–272.

1983—Subsec. (a). Pub. L. 97–424, §153(a)(1), inserted ''(1)'' before ''the repair or reconstruction of highways'', and substituted ''Secretary'' for ''he'' before ''shall find have suffered''; (A) and (B) for (1) and (2), respectively; ''In no event shall funds be used pursuant to this section for the'' for ''and (2)''; and ''or responsible local official'' for ''after December 31, 1967, and prior to December 31, 1970,''.

Pub. L. 97–424, §153(a)(2), inserted ''from the Highway Trust Fund'' after ''appropriated''.

Pub. L. 97–424, §153(c), inserted ''and not more than $100,000,000 is authorized to be expended in any one fiscal year commencing after September 30, 1980,'' after ''after September 30, 1976,''.

Subsec. (b). Pub. L. 97–424, §153(d), inserted proviso establishing a $30,000,000 limit for obligations relating to a single natural disaster in any one State.

Pub. L. 97–424, §153(h)(1), substituted ''the Interstate System, the Primary System, and on any routes functionally classified as arterials or major collectors,'' for ''the Federal-aid highway systems, including the Interstate System'', wherever appearing.

Subsec. (c). Pub. L. 97–424, §153(h)(2), substituted ''routes functionally classified as arterials or major collectors'' for ''on any of the Federal-aid highway systems''.

1979—Subsec. (b). Pub. L. 96–106 inserted provision that notwithstanding any provision of this chapter actual and necessary costs of maintenance and operation of ferryboats providing temporary substitute highway traffic service, less the amount of fares charged, may be expended from the emergency fund herein authorized on the Federal-aid highway systems, including the Interstate System.

1978—Subsec. (a). Pub. L. 95–599 inserted ''prior to the fiscal year ending September 30, 1978'' after ''such years, and (2)'', and inserted provision authorizing appropriations of 100 percent of expenditures out of the Highway Trust Fund.

1976—Subsec. (a). Pub. L. 94–280, §119(a)(1)–(3), inserted '', and ending before June 1, 1976,'' after ''June 30, 1972,'', authorized expenditure of not more than $25,000,000 for the three-month period beginning July 1, 1976, and ending September 30, 1976, and not more than $100,000,000 in any one fiscal year commencing after September 30, 1976, and inserted provision that for the purposes of this section the period beginning July 1, 1976, and ending September 30, 1976, shall be deemed to be a part of the fiscal year ending September 30, 1977.

Subsec. (b). Pub. L. 94–280, §119(b), excepted from the requirement of a concurrence by the Secretary an emergency declared by the President to be a major disaster for purposes of the Disaster Relief Act of 1974.

1972—Subsec. (a). Pub. L. 92–361 substituted provisions setting forth maximum expendable amounts for fiscal years ending July 1, 1972 and for fiscal years commencing after June 30, 1972 and an additional amount for fiscal year ending June 30, 1973 for provisions setting forth maximum expendable amount for any fiscal year.

1970—Subsec. (a). Pub. L. 91–605 provided emergency relief for the repair or reconstruction of bridges which have been permanently closed to all vehicular traffic by the State after December 31, 1967, and prior to December 31, 1970, because of imminent danger of collapse due to structural deficiencies or physical deterioration.

1968—Subsec. (a). Pub. L. 90–495 permitted the use of the emergency fund for repair or construction caused by other than natural catastrophes.

1966—Subsec. (a). Pub. L. 89–574, §9(c), raised from $30,000,000 to $50,000,000 the upper limit on allowable annual appropriations to establish and replenish the fund, provided that, if, in any fiscal year the total of all expenditures under this section is less than $50,000,000,

the unexpended balance of such amount shall remain available for expenditure during the next two succeeding fiscal years in addition to amount otherwise available, and provided that 60 per centum of the expenditures under this section are authorized to be appropriated from the Highway Trust Fund and the remaining 40 per centum of such expenditures are authorized to be appropriated only from any monies in the Treasury not otherwise appropriated.

Subsec. (c). Pub. L. 89–574, § 9(b), added parkways, public lands highways, public lands development roads, and trails to the list of types of roads the repair or reconstruction of which may be paid for out of the emergency fund.

1959—Pub. L. 86–342, among other changes, made expenditures from the emergency fund subject to the provisions of section 120 of this title, and permitted the Secretary to expend funds from the emergency fund, either independently or in cooperation with any other branch of the Government, State agency, organization, or person, for the repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, and Indian reservation roads, whether or not such highways, roads, or trails are on any of the Federal-aid highway systems.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 applicable only to natural disasters and catastrophic failures occurring after Dec. 18, 1991, see section 1022(c) of Pub. L. 102–240, set out as a note under section 120 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 118(a)(2) of Pub. L. 100–17 provided that: ''The amendment made by paragraph (1) [amending this section] shall apply with respect to natural disasters and catastrophic failures occurring after December 31, 1985.''

Section 118(b)(3) of Pub. L. 100–17 provided that: ''The amendments made by paragraphs (1) and (2) [amending this section] shall take effect on the date of the enactment of this Act [Apr. 2, 1987].''

EFFECTIVE DATE OF 1983 AMENDMENT

Section 153(e) of Pub. L. 97–424 provided that: ''The amendments made by subsection (d) of this section [amending this section] shall apply to natural disasters or catastrophic failures which the Secretary finds eligible for emergency relief subsequent to the date of enactment of this section [Jan. 6, 1983].''

EFFECTIVE DATE OF 1968 AMENDMENT

Section 27(c) of Pub. L. 90–495 provided that: ''The amendments made by this section [amending this section and section 120 of this title] shall be applicable to repair or reconstruction with respect to which project agreements have been entered into on or after January 1, 1968.''

EFFECTIVE DATE OF 1966 AMENDMENT

Section 9(d) of Pub. L. 89–574 provided that: ''The amendments made by this section [amending this section] shall take effect July 1, 1966.''

EXPENDITURES MADE PRIOR TO FISCAL YEAR ENDING SEPTEMBER 30, 1978; APPROPRIATION FROM HIGHWAY TRUST FUND

Section 153(b) of Pub. L. 97–424 provided that: ''Notwithstanding any other provision of law, all expenditures made under section 125 of title 23, United States Code, prior to the fiscal year ending September 30, 1978, are authorized to have been appropriated from the Highway Trust Fund.''

§ 126. Uniform transferability of Federal-aid highway funds

(a) GENERAL RULE.—Notwithstanding any other provision of law but subject to subsections (b) and (c), if at least 50 percent of a State's apportionment under section 104 or 144 for a fiscal year or at least 50 percent of the funds set-aside under section 133(d) from the State's apportionment under section 104(b)(3) may not be transferred to any other apportionment of the State under section 104 or 144 for such fiscal year, then the State may transfer not to exceed 50 percent of such apportionment or set aside to any other apportionment of such State under section 104 or 144 for such fiscal year.

(b) APPLICATION TO CERTAIN SET-ASIDES.—No funds may be transferred under this section that are subject to the last sentence of section 133(d)(1)[1] or to section 104(f) or to section 133(d)(3). The maximum amount that a State may transfer under this section of the State's set-aside under section 133(d)(1)[1] or 133(d)(2) for a fiscal year may not exceed 25 percent of (1) the amount of such set-aside, less (2) the amount of the State's set-aside under such section for fiscal year 1997.

(c) APPLICATION TO CERTAIN CMAQ FUNDS.—The maximum amount that a State may transfer under this section of the State's apportionment under section 104(b)(2) for a fiscal year may not exceed 50 percent of (1) the amount of such apportionment, less (2) the amount that the State's apportionment under section 104(b)(2) for such fiscal year would have been had the program been funded at $1,350,000,000. Any such funds apportioned under section 104(b)(2) and transferred under this section may only be obligated in geographic areas eligible for the obligation of funds apportioned under section 104(b)(2).

(Added Pub. L. 105–178, title I, § 1310(a), June 9, 1998, 112 Stat. 234, § 110; renumbered § 126, Pub. L. 106–159, title I, § 102(a)(1), Dec. 9, 1999, 113 Stat. 1752; amended Pub. L. 109–59, title I, § 1401(a)(3)(B), Aug. 10, 2005, 119 Stat. 1225.)

REFERENCES IN TEXT

Section 133(d)(1), referred to in subsec. (b), was repealed by Pub. L. 109–59, title I, § 1113(b)(1), Aug. 10, 2005, 119 Stat. 1172.

PRIOR PROVISIONS

A prior section 126, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 901; Pub. L. 93–87, title I, § 152(3), Aug. 13, 1973, 87 Stat. 276, related to providing Federal aid for highway construction only to States that used at least amounts provided by law on June 18, 1934, for such purposes, prior to repeal by Pub. L. 105–178, title I, § 1226(d), as added by Pub. L. 105–206, title IX, § 9003(a), July 22, 1998, 112 Stat. 837.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–59, which directed insertion of ''under'' after ''State's apportionment'', was executed by making the insertion after ''State's apportionment'' the second place it appeared, to reflect the probable intent of Congress.

1999—Pub. L. 106–159 renumbered section 110 of this title as this section.

§ 127. Vehicle weight limitations—Interstate System

(a) IN GENERAL.—

(1) No funds shall be apportioned in any fiscal year under section 104(b)(1) of this title to

[1] See References in Text note below.

any State which does not permit the use of The Dwight D. Eisenhower System of Interstate and Defense Highways within its boundaries by vehicles with a weight of twenty thousand pounds carried on any one axle, including enforcement tolerances, or with a tandem axle weight of thirty-four thousand pounds, including enforcement tolerances, or a gross weight of at least eighty thousand pounds for vehicle combinations of five axles or more.

(2) However, the maximum gross weight to be allowed by any State for vehicles using The Dwight D. Eisenhower System of Interstate and Defense Highways shall be twenty thousand pounds carried on one axle, including enforcement tolerances, and a tandem axle weight of thirty-four thousand pounds, including enforcement tolerances and with an overall maximum gross weight, including enforcement tolerances, on a group of two or more consecutive axles produced by application of the following formula:

$$W=500\left(\frac{LN}{N-1}+12N+36\right)$$

where W equals overall gross weight on any group of two or more consecutive axles to the nearest five hundred pounds, L equals distance in feet between the extreme of any group of two or more consecutive axles, and N equals number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles (1) is thirty-six feet or more, or (2) in the case of a motor vehicle hauling any tank trailer, dump trailer, or ocean transport container before September 1, 1989, is 30 feet or more: *Provided*, That such overall gross weight may not exceed eighty thousand pounds, including all enforcement tolerances, except for vehicles using Interstate Route 29 between Sioux City, Iowa, and the border between Iowa and South Dakota or vehicles using Interstate Route 129 between Sioux City, Iowa, and the border between Iowa and Nebraska, and except for those vehicles and loads which cannot be easily dismantled or divided and which have been issued special permits in accordance with applicable State laws, or the corresponding maximum weights permitted for vehicles using the public highways of such State under laws or regulations established by appropriate State authority in effect on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles on any vehicle (other than a vehicle comprised of a motor vehicle hauling any tank trailer, dump trailer, or ocean transport container on or after September 1, 1989), on the date of enactment of the Federal-Aid Highway Amendments of 1974, whichever is the greater.

(3) Any amount which is withheld from apportionment to any State pursuant to the foregoing provisions shall lapse if not released and obligated within the availability period specified in section 118(b)(2) of this title.

(4) This section shall not be construed to deny apportionment to any State allowing the operation within such State of any vehicles or combinations thereof, other than vehicles or combinations subject to subsection (d) of this section, which the State determines could be lawfully operated within such State on July 1, 1956, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974.

(5) With respect to the State of Hawaii, laws or regulations in effect on February 1, 1960, shall be applicable for the purposes of this section in lieu of those in effect on July 1, 1956.

(6) With respect to the State of Colorado, vehicles designed to carry 2 or more precast concrete panels shall be considered a nondivisible load.

(7) With respect to the State of Michigan, laws or regulations in effect on May 1, 1982, shall be applicable for the purposes of this subsection.

(8) With respect to the State of Maryland, laws and regulations in effect on June 1, 1993, shall be applicable for the purposes of this subsection.

(9) The State of Louisiana may allow, by special permit, the operation of vehicles with a gross vehicle weight of up to 100,000 pounds for the hauling of sugarcane during the harvest season, not to exceed 100 days annually.

(10) With respect to Interstate Routes 89, 93, and 95 in the State of New Hampshire, State laws (including regulations) concerning vehicle weight limitations that were in effect on January 1, 1987, and are applicable to State highways other than the Interstate System, shall be applicable in lieu of the requirements of this subsection.

(11) With respect to all portions of the Interstate Highway System in the State, laws (including regulations) of the State of Maine concerning vehicle weight limitations that were in effect on October 1, 1995, and are applicable to State highways other than the Interstate System, shall be applicable in lieu of the requirements of this subsection.

(12) HEAVY DUTY VEHICLES.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in order to promote reduction of fuel use and emissions because of engine idling, the maximum gross vehicle weight limit and the axle weight limit for any heavy-duty vehicle equipped with an idle reduction technology shall be increased by a quantity necessary to compensate for the additional weight of the idle reduction system.

(B) MAXIMUM WEIGHT INCREASE.—The weight increase under subparagraph (A) shall be not greater than 400 pounds.

(C) PROOF.—On request by a regulatory agency or law enforcement agency, the vehicle operator shall provide proof (through demonstration or certification) that—

(i) the idle reduction technology is fully functional at all times; and

(ii) the 400-pound gross weight increase is not used for any purpose other than the use of idle reduction technology described in subparagraph (A).

(13) VERMONT PILOT PROGRAM.—

(A)[1] IN GENERAL.—With respect to Interstate Routes 89, 91, and 93 in the State of Vermont, laws (including regulations) of that State concerning vehicle weight limitations applicable to State highways other than the Interstate system shall be applicable in lieu of the requirements of this subsection.

(b) REASONABLE ACCESS.—No State may enact or enforce any law denying reasonable access to motor vehicles subject to this title to and from the Interstate Highway System to terminals and facilities for food, fuel, repairs, and rest.

(c) OCEAN TRANSPORT CONTAINER DEFINED.—For purposes of this section, the term ''ocean transport container'' has the meaning given the term ''freight container'' by the International Standards Organization in Series 1, Freight Containers, 3rd Edition (reference number IS0668–1979(E)) as in effect on the date of the enactment of this subsection.

(d) LONGER COMBINATION VEHICLES.—

(1) PROHIBITION.—

(A) GENERAL CONTINUATION RULE.—A longer combination vehicle may continue to operate only if the longer combination vehicle configuration type was authorized by State officials pursuant to State statute or regulation conforming to this section and in actual lawful operation on a regular or periodic basis (including seasonal operations) on or before June 1, 1991, or pursuant to section 335 of the Department of Transportation and Related Agencies Appropriations Act, 1991 (104 Stat. 2186).

(B) APPLICABILITY OF STATE LAWS AND REGULATIONS.—All such operations shall continue to be subject to, at the minimum, all State statutes, regulations, limitations and conditions, including, but not limited to, routing-specific and configuration-specific designations and all other restrictions, in force on June 1, 1991; except that subject to such regulations as may be issued by the Secretary pursuant to paragraph (5) of this subsection, the State may make minor adjustments of a temporary and emergency nature to route designations and vehicle operating restrictions in effect on June 1, 1991, for specific safety purposes and road construction.

(C) WYOMING.—In addition to those vehicles allowed under subparagraph (A), the State of Wyoming may allow the operation of additional vehicle configurations not in actual operation on June 1, 1991, but authorized by State law not later than November 3, 1992, if such vehicle configurations comply with the single axle, tandem axle, and bridge formula limits set forth in subsection (a) and do not exceed 117,000 pounds gross vehicle weight.

(D) OHIO.—In addition to vehicles which the State of Ohio may continue to allow to be operated under subparagraph (A), such State may allow longer combination vehicles with 3 cargo carrying units of 28½ feet each (not including the truck tractor) not in actual operation on June 1, 1991, to be operated within its boundaries on the 1-mile segment of Ohio State Route 7 which begins at and is south of exit 16 of the Ohio Turnpike.

(E) ALASKA.—In addition to vehicles which the State of Alaska may continue to allow to be operated under subparagraph (A), such State may allow the operation of longer combination vehicles which were not in actual operation on June 1, 1991, but which were in actual operation prior to July 5, 1991.

(F) IOWA.—In addition to vehicles that the State of Iowa may continue to allow to be operated under subparagraph (A), the State may allow longer combination vehicles that were not in actual operation on June 1, 1991, to be operated on Interstate Route 29 between Sioux City, Iowa, and the border between Iowa and South Dakota or Interstate Route 129 between Sioux City, Iowa, and the border between Iowa and Nebraska.

(2) ADDITIONAL STATE RESTRICTIONS.—

(A) IN GENERAL.—Nothing in this subsection shall prevent any State from further restricting in any manner or prohibiting the operation of longer combination vehicles otherwise authorized under this subsection; except that such restrictions or prohibitions shall be consistent with the requirements of sections 31111–31114 of title 49.

(B) MINOR ADJUSTMENTS.—Any State further restricting or prohibiting the operations of longer combination vehicles or making minor adjustments of a temporary and emergency nature as may be allowed pursuant to regulations issued by the Secretary pursuant to paragraph (5) of this subsection, shall, within 30 days, advise the Secretary of such action, and the Secretary shall publish a notice of such action in the Federal Register.

(3) PUBLICATION OF LIST.—

(A) SUBMISSION TO SECRETARY.—Within 60 days of the date of the enactment of this subsection, each State (i) shall submit to the Secretary for publication in the Federal Register a complete list of (I) all operations of longer combination vehicles being conducted as of June 1, 1991, pursuant to State statutes and regulations; (II) all limitations and conditions, including, but not limited to, routing-specific and configuration-specific designations and all other restrictions, governing the operation of longer combination vehicles otherwise prohibited under this subsection; and (III) such statutes, regulations, limitations, and conditions; and (ii) shall submit to the Secretary copies of such statutes, regulations, limitations, and conditions.

(B) INTERIM LIST.—Not later than 90 days after the date of the enactment of this subsection, the Secretary shall publish an interim list in the Federal Register, consisting of all information submitted pursuant to subparagraph (A). The Secretary shall review for accuracy all information submitted by the States pursuant to subparagraph (A) and shall solicit and consider public com-

[1] So in original. No subpar. (B) has been enacted.

ment on the accuracy of all such information.

(C) LIMITATION.—No statute or regulation shall be included on the list submitted by a State or published by the Secretary merely on the grounds that it authorized, or could have authorized, by permit or otherwise, the operation of longer combination vehicles, not in actual operation on a regular or periodic basis on or before June 1, 1991.

(D) FINAL LIST.—Except as modified pursuant to paragraph (1)(C) of this subsection, the list shall be published as final in the Federal Register not later than 180 days after the date of the enactment of this subsection. In publishing the final list, the Secretary shall make any revisions necessary to correct inaccuracies identified under subparagraph (B). After publication of the final list, longer combination vehicles may not operate on the Interstate System except as provided in the list.

(E) REVIEW AND CORRECTION PROCEDURE.—The Secretary, on his or her own motion or upon a request by any person (including a State), shall review the list issued by the Secretary pursuant to subparagraph (D). If the Secretary determines there is cause to believe that a mistake was made in the accuracy of the final list, the Secretary shall commence a proceeding to determine whether the list published pursuant to subparagraph (D) should be corrected. If the Secretary determines that there is a mistake in the accuracy of the list the Secretary shall correct the publication under subparagraph (D) to reflect the determination of the Secretary.

(4) LONGER COMBINATION VEHICLE DEFINED.—For purposes of this section, the term ''longer combination vehicle'' means any combination of a truck tractor and 2 or more trailers or semitrailers which operates on the Interstate System at a gross vehicle weight greater than 80,000 pounds.

(5) REGULATIONS REGARDING MINOR ADJUSTMENTS.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall issue regulations establishing criteria for the States to follow in making minor adjustments under paragraph (1)(B).

(e) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON INTERSTATE ROUTE 68.—The single axle, tandem axle, and bridge formula limits set forth in subsection (a) shall not apply to the operation on Interstate Route 68 in Garrett and Allegany Counties, Maryland, of any specialized vehicle equipped with a steering axle and a tridem axle and used for hauling coal, logs, and pulpwood if such vehicle is of a type of vehicle as was operating in such counties on United States Route 40 or 48 for such purpose on August 1, 1991.

(f) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON CERTAIN WISCONSIN HIGHWAYS.—If the 104-mile portion of Wisconsin State Route 78 and United States Route 51 between Interstate Route 94 near Portage, Wisconsin, and Wisconsin State Route 29 south of Wausau, Wisconsin, is designated as part of the Interstate System under section 103(c)(4)(A), the single axle weight, tandem axle weight, gross vehicle weight, and bridge formula limits set forth in subsection (a) shall not apply to the 104-mile portion with respect to the operation of any vehicle that could legally operate on the 104-mile portion before the date of the enactment of this subsection.

(g) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON CERTAIN PENNSYLVANIA HIGHWAYS.—If the segment of United States Route 220 between Bedford and Bald Eagle, Pennsylvania, is designated as part of the Interstate System, the single axle weight, tandem axle weight, gross vehicle weight, and bridge formula limits set forth in subsection (a) shall not apply to that segment with respect to the operation of any vehicle which could have legally operated on that segment before the date of the enactment of this subsection.

(h) WAIVER FOR A ROUTE IN STATE OF MAINE DURING PERIODS OF NATIONAL EMERGENCY.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, the Secretary, in consultation with the Secretary of Defense, may waive or limit the application of any vehicle weight limit established under this section with respect to the portion of Interstate Route 95 in the State of Maine between Augusta and Bangor for the purpose of making bulk shipments of jet fuel to the Air National Guard Base at Bangor International Airport during a period of national emergency in order to respond to the effects of the national emergency.

(2) APPLICABILITY.—Emergency limits established under paragraph (1) shall preempt any inconsistent State vehicle weight limits.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 902; Pub. L. 86–624, §17(e), July 12, 1960, 74 Stat. 416; Pub. L. 93–643, §106, Jan. 4, 1975, 88 Stat. 2283; Pub. L. 94–280, title I, §120, May 5, 1976, 90 Stat. 438; Pub. L. 97–424, title I, §133, formerly §133(a), Jan. 6, 1983, 96 Stat. 2123, renumbered §133, Pub. L. 100–17, title I, §133(a)(3), Apr. 2, 1987, 101 Stat. 170; Pub. L. 100–17, title I, §119, Apr. 2, 1987, 101 Stat. 157; Pub. L. 100–202, §101(*l*) [title III, §347(c)], Dec. 22, 1987, 101 Stat. 1329–358, 1329–388; Pub. L. 101–427, Oct. 15, 1990, 104 Stat. 927; Pub. L. 102–240, title I, §1023(a), (b), (d), Dec. 18, 1991, 105 Stat. 1951, 1952, 1954; Pub. L. 103–331, title III, §332, Sept. 30, 1994, 108 Stat. 2493; Pub. L. 103–429, §3(3), Oct. 31, 1994, 108 Stat. 4377; Pub. L. 104–59, title III, §312(a)(1), (2), (b), Nov. 28, 1995, 109 Stat. 584; Pub. L. 104–88, title IV, §§404, 405(a)(1), Dec. 29, 1995, 109 Stat. 956; Pub. L. 105–178, title I, §§1106(c)(2)(B), 1212(d)(1), June 9, 1998, 112 Stat. 136, 194; Pub. L. 107–107, div. A, title X, §1064, Dec. 28, 2001, 115 Stat. 1233; Pub. L. 108–447, div. J, title I, §121, Dec. 8, 2004, 118 Stat. 3347; Pub. L. 109–58, title VII, §756(c), Aug. 8, 2005, 119 Stat. 832; Pub. L. 109–59, title I, §1111(b)(3), Aug. 10, 2005, 119 Stat. 1171; Pub. L. 111–117, div. A, title I, §194(a), (c), (d), (f), Dec. 16, 2009, 123 Stat. 3072, 3073.)

AMENDMENT OF SUBSECTION (a)(11)

Pub. L. 111–117, div. A, title I, §194(c), Dec. 16, 2009, 123 Stat. 3072, provided that, effective as of the date that is 366 days after Dec. 16, 2009, subsection (a)(11) of this section is amend-

ed by striking ''all portions of the Interstate Highway System in the State, laws (including regulations)'' and inserting ''that portion of the Maine Turnpike designated Route 95 and 495, and that portion of Interstate Route 95 from the southern terminus of the Maine Turnpike to the New Hampshire State line, laws (including regulations)''. See Effective and Termination Dates of 2009 Amendment note below.

REPEAL OF SUBSECTION (a)(13)

Pub. L. 111–117, div. A, title I, § 194(f), Dec. 16, 2009, 123 Stat. 3073, provided that, effective as of the date that is 366 days after Dec. 16, 2009, subsection (a) of this section is amended by striking paragraph (13). See Effective and Termination Dates of 2009 Amendment note below.

REFERENCES IN TEXT

The date of enactment of Federal-Aid Highway Amendments of 1974, referred to in subsec. (a)(2), (4), means Jan. 4, 1975, the date on which Pub. L. 93–643 was approved.

The date of the enactment of this subsection, referred to in subsec. (c), is the date of enactment of Pub. L. 100–17, which was approved Apr. 2, 1987.

Section 335 of the Department of Transportation and Related Agencies Appropriations Act, 1991, referred to in subsec. (d)(1)(A), is section 335 of Pub. L. 101–516, which is not classified to the Code.

The date of the enactment of this subsection, referred to in subsec. (d)(3)(A), (B), (D), (5), is the date of the enactment of Pub. L. 102–240, which was approved Dec. 18, 1991.

The date of the enactment of this subsection, referred to in subsec. (f), is the date of enactment of Pub. L. 104–59, which was approved Nov. 28, 1995.

The date of the enactment of this subsection, referred to in subsec. (g), is the date of enactment of Pub. L. 104–88, which was approved Dec. 29, 1995.

AMENDMENTS

2009—Subsec. (a)(11). Pub. L. 111–117, § 194(a), (b), which directed temporary substitution of ''all portions of the Interstate Highway System in the State, laws (including regulations)'' for ''that portion of the Maine Turnpike designated Route 95 and 495, and that portion of Interstate Route 95 from the southern terminus of the Maine Turnpike to the New Hampshire State line, laws (including regulations)'', was executed by making the temporary substitution for ''that portion of the Maine Turnpike designated Interstate Route 95 and 495, and that portion of Interstate Route 95 from the southern terminus of the Maine Turnpike to the New Hampshire State line, laws (including regulations)'' to reflect the probable intent of Congress. See Effective and Termination Dates of 2009 Amendment note below.

Subsec. (a)(13). Pub. L. 111–117, § 194(d), (e), temporarily added par. (13). See Effective and Termination Dates of 2009 Amendment note below.

2005—Subsec. (a). Pub. L. 109–58 designated first to eleventh sentences as pars. (1) to (11), respectively, and added par. (12).

Subsec. (a)(3). Pub. L. 109–59 substituted ''118(b)(2)'' for ''118(b)(1)''.

2004—Subsec. (a). Pub. L. 108–447 substituted ''Interstate Routes 89, 93, and 95 in the State of New Hampshire'' for ''Interstate Route 95 in the State of New Hampshire'' in the penultimate sentence.

2001—Subsec. (h). Pub. L. 107–107 added subsec. (h).

1998—Subsec. (a). Pub. L. 105–178, § 1212(d)(1), inserted before penultimate sentence ''With respect to the State of Colorado, vehicles designed to carry 2 or more precast concrete panels shall be considered a nondivisible load.'' and inserted at end ''The State of Louisiana may allow, by special permit, the operation of vehicles with a gross vehicle weight of up to 100,000 pounds for the hauling of sugarcane during the harvest season, not to exceed 100 days annually. With respect to Interstate Route 95 in the State of New Hampshire, State laws (including regulations) concerning vehicle weight limitations that were in effect on January 1, 1987, and are applicable to State highways other than the Interstate System, shall be applicable in lieu of the requirements of this subsection. With respect to that portion of the Maine Turnpike designated Interstate Route 95 and 495, and that portion of Interstate Route 95 from the southern terminus of the Maine Turnpike to the New Hampshire State line, laws (including regulations) of the State of Maine concerning vehicle weight limitations that were in effect on October 1, 1995, and are applicable to State highways other than the Interstate System, shall be applicable in lieu of the requirements of this subsection.''

Subsec. (f). Pub. L. 105–178, § 1106(c)(2)(B), substituted ''section 103(c)(4)(A)'' for ''section 139(a)''.

1995—Subsec. (a). Pub. L. 104–59, § 312(a)(1), in proviso of second sentence substituted ''except for vehicles using Interstate Route 29 between Sioux City, Iowa, and the border between Iowa and South Dakota or vehicles using Interstate Route 129 between Sioux City, Iowa, and the border between Iowa and Nebraska, and except for those'' for ''except for those''.

Subsec. (d)(1)(F). Pub. L. 104–59, § 312(a)(2), added subpar. (F).

Subsec. (f). Pub. L. 104–59, § 312(b), as amended by Pub. L. 104–88, § 405(a)(1), added subsec. (f).

Subsec. (g). Pub. L. 104–88, § 404, added subsec. (g).

1994—Subsec. (a). Pub. L. 103–331 inserted at end ''With respect to the State of Maryland, laws and regulations in effect on June 1, 1993, shall be applicable for the purposes of this subsection.''

Subsec. (d)(2)(A). Pub. L. 103–429 substituted ''sections 31111–31114 of title 49'' for ''sections 411, 412, and 416 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311, 2312, and 2316)''.

1991—Subsec. (a). Pub. L. 102–240, § 1023(a), substituted ''funds shall be apportioned in any fiscal year under section 104(b)(1) of this title'' for ''funds authorized to be appropriated for any fiscal year under provisions of the Federal-Aid Highway Act of 1956 shall be apportioned'' in first sentence and inserted '', other than vehicles or combinations subject to subsection (d) of this section,'' after ''thereof'' in fourth sentence.

Subsecs. (d), (e). Pub. L. 102–240, § 1023(b), (d), added subsecs. (d) and (e).

1990—Subsec. (a). Pub. L. 101–427 substituted ''The Dwight D. Eisenhower System of Interstate and Defense Highways'' for ''the National System of Interstate and Defense Highways'' in two places.

1987—Subsec. (a). Pub. L. 100–202 substituted ''September 1, 1989'' for ''September 1, 1988'' in two places.

Pub. L. 100–17, § 119(d)(1), inserted heading.

Pub. L. 100–17, § 119(a)(1), (2), which directed that second sentence be amended by inserting ''(1)'' before ''is 36 feet or more'' and by inserting cl. (2) after such phrase, was executed by making the insertions before and after ''is thirty-six feet or more'' to reflect the probable intent of Congress.

Pub. L. 100–17, § 119(a)(3), (b), inserted ''on any vehicle (other than a vehicle comprised of a motor vehicle hauling any tank trailer, dump trailer, or ocean transport container on or after September 1, 1988)'' after last reference to ''consecutive axles'' in second sentence and substituted ''lapse if not released and obligated within the availability period specified in section 118(b)(1) of this title.'' for ''lapse.''

Subsec. (b). Pub. L. 100–17, § 119(d)(2), inserted heading.

Subsec. (c). Pub. L. 100–17, § 119(c), added subsec. (c).

1983—Pub. L. 97–424 struck out ''and width'' after ''weight'' in section catchline.

Subsec. (a). Pub. L. 97–424 designated existing provisions as subsec. (a) and substituted provisions relating to authority to appropriate funds for any fiscal year under the Federal-Aid Highway Act of 1956 with respect

to apportionment to any State not permitting the use of the National System of Interstate and Defense Highways within its boundaries by vehicles with specified weights, provisions setting forth formula of maximum gross weight to be allowed by any State for vehicles using such Highways, and provisions setting forth further limitations for apportionment, for provisions relating to authority to appropriate funds for any fiscal year under section 108(b) of the Federal-Aid Highway Act of 1956 with respect to apportionment to any State not permitting the use of the Interstate System within its boundaries by vehicles with specified weights, provisions setting forth formula for determination of overall gross weight, provisions relating to maximum widths permitted for vehicles, and provisions setting forth further limitations for apportionment.

Subsec. (b). Pub. L. 97–424 added subsec. (b).

1976—Pub. L. 94–280 authorized a State to permit any bus with a width of 102 inches or less to operate on any lane of twelve feet or more in width on the Interstate System.

1975—Pub. L. 93–643 substituted weight limitations of 20,000 lbs. carried on any one axle, including all enforcement tolerances, for 18,000 lbs. carried on any one axle, of 34,000 lbs. for tandem axle weight, including all enforcement tolerances, for 32,000 lbs. for tandem axle weight, overall gross weight limitation of 80,000, including enforcement tolerances, for overall gross weight of 73,280 lbs. prescribed a formula for determination of overall gross weight on a group of two or more consecutive axles, authorized a gross load of 34,000 lbs. each for two consecutive sets of tandem axles having an overall distance of 36 or more feet between such axles, excepted from the new weight limitations cases of overall gross weight of any group of two or more consecutive axles, on Jan. 4, 1975, and inserted ‘‘, except in the case of the overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Amendments of 1974’’ in third sentence.

1960—Pub. L. 86–624 made the laws or regulation in effect on Feb. 1, 1960, applicable, with respect to the State of Hawaii, for the purposes of this section, in lieu of those in effect on July 1, 1956.

EFFECTIVE AND TERMINATION DATES OF 2009 AMENDMENT

Pub. L. 111–117, div. A, title I, §194(b), Dec. 16, 2009, 123 Stat. 3072, provided that: ‘‘The amendment made by subsection (a) [amending this section] shall be in effect during the 1-year period beginning on the date of enactment of this Act [Dec. 16, 2009].’’

Pub. L. 111–117, div. A, title I, §194(c), Dec. 16, 2009, 123 Stat. 3072, provided that the amendment made by section 194(c) is effective as of the date that is 366 days after Dec. 16, 2009.

Pub. L. 111–117, div. A, title I, §194(e), Dec. 16, 2009, 123 Stat. 3073, provided that: ‘‘The amendment made by subsection (d) [amending this section] shall be in effect during the 1-year period beginning on the date of enactment of this Act [Dec. 16, 2009].’’

Pub. L. 111–117, div. A, title I, §194(f), Dec. 16, 2009, 123 Stat. 3073, provided that the amendment made by section 194(f) is effective as of the date that is 366 days after Dec. 16, 2009.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by section 404 of Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 701 of Title 49, Transportation.

Section 405(a) of Pub. L. 104–88 provided that the amendment made by that section is effective Nov. 28, 1995.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

SPECIALIZED HAULING VEHICLES

Pub. L. 105–178, title I, §1213(f), June 9, 1998, 112 Stat. 201, provided that:

‘‘(1) STUDY.—The Secretary shall conduct a study to examine the impact of the truck weight standards on specialized hauling vehicles. The study shall include, at a minimum, an analysis of the economic, safety, and infrastructure impacts of the standards.

‘‘(2) REPORT.—Not later than 2 years after the date of enactment of this Act [June 9, 1998], the Secretary shall transmit to Congress a report on the results of the study with any recommendations the Secretary determines appropriate as a result of the study.’’

VEHICLE WEIGHT ENFORCEMENT

Pub. L. 105–178, title I, §1213(h), June 9, 1998, 112 Stat. 202, provided that:

‘‘(1) STUDY.—The Secretary shall conduct a study of State laws (including regulations) relating to penalties for violation of State commercial motor vehicle weight laws.

‘‘(2) PURPOSE.—The purpose of the study shall be to determine the effectiveness of State penalties as a deterrent to illegally overweight trucking operations. The study shall evaluate fine structures, innovative roadside enforcement techniques, and a State’s ability to penalize shippers and carriers as well as drivers and shall examine the effectiveness of administrative and judicial procedures utilized to enforce vehicle weight laws.

‘‘(3) REPORT.—Not later than 2 years after the date of enactment of this Act [June 9, 1998], the Secretary shall transmit to Congress a report on the results of the study with any legislative recommendations of the Secretary.’’

COMMERCIAL MOTOR VEHICLE STUDY

Pub. L. 105–178, title I, §1213(i), June 9, 1998, 112 Stat. 202, provided that:

‘‘(1) IN GENERAL.—The Secretary shall request the Transportation Research Board of the National Academy of Sciences to conduct a study regarding the regulation of weights, lengths, and widths of commercial motor vehicles operating on Federal-aid highways to which Federal regulations apply on the date of enactment of this Act [June 9, 1998]. In conducting the study, the Board shall review law, regulations, studies (including Transportation Research Board Special Report 225), and practices and develop recommendations regarding any revisions to law and regulations that the Board determines appropriate.

‘‘(2) FACTORS TO CONSIDER AND EVALUATE.—In developing recommendations under paragraph (1), the Board shall consider and evaluate the impact of the recommendations described in paragraph (1) on the economy, the environment, safety, and service to communities.

‘‘(3) CONSULTATION.—In carrying out the study, the Board shall consult with the Department of Transportation, States, the motor carrier industry, freight shippers, highway safety groups, air quality and natural resource management groups, commercial motor vehicle driver representatives, and other appropriate entities.

‘‘(4) REPORT.—Not later than 2 years after the date of enactment of this Act [June 9, 1998], the Board shall transmit to Congress and the Secretary a report on the results of the study conducted under this subsection.

‘‘(5) RECOMMENDATIONS.—Not later than 180 days after the date of receipt of the report under paragraph (4), the Secretary may transmit to Congress a report containing comments or recommendations of the Secretary regarding the Board’s report.

‘‘(6) FUNDING.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $250,000 for each of fiscal years 1999 and 2000 to carry out this subsection.

''(7) APPLICABILITY OF TITLE 23.—Funds made available to carry out this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of the study under this subsection shall be 100 percent and such funds shall remain available until expended.''

OVER-THE-ROAD BUSES AND PUBLIC TRANSIT VEHICLES

Pub. L. 102–240, title I, § 1023(h), as added by Pub. L. 102–388, title III, § 341, Oct. 6, 1992, 106 Stat. 1552; amended by Pub. L. 104–59, title III, § 326, Nov. 28, 1995, 109 Stat. 592; Pub. L. 105–178, title I, § 1212(c), June 9, 1998, 112 Stat. 194; Pub. L. 108–7, div. I, title III, § 347, Feb. 20, 2003, 117 Stat. 419; Pub. L. 108–447, div. H, title V, § 530, Dec. 8, 2004, 118 Stat. 3271; Pub. L. 109–59, title I, § 1309, Aug. 10, 2005, 119 Stat. 1219; Pub. L. 109–115, div. A, title I, § 115, Nov. 30, 2005, 119 Stat. 2408, provided that:

''(1) TEMPORARY EXEMPTION.—The second sentence of section 127 of title 23, United States Code, relating to axle weight limitations for vehicles using the Dwight D. Eisenhower System of Interstate and Defense Highways, shall not apply, for the period beginning on October 6, 1992, and ending on October 1, 2009, to—

''(A) any over-the-road bus (as defined in section 301 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181)); or

''(B) any vehicle that is regularly and exclusively used as an intrastate public agency transit passenger bus.

''(2) STATE ACTION.—

''(A) WEIGHT LIMITATIONS.—For the period beginning on the date of enactment of this subparagraph [Nov. 30, 2005] and ending on September 30, 2009, a covered State, including any political subdivision of such State, may not enforce a single axle weight limitation of less than 24,000 pounds, including enforcement tolerances, on any vehicle referred to in paragraph (1) in any case in which the vehicle is using the Interstate System.

''(B) COVERED STATE DEFINED.—In this paragraph, the term 'covered State' means a State that has enforced, in the period beginning on October 6, 1992, and ending on the date of enactment of this subparagraph [Nov. 30, 2005], a single axle weight limitation of 20,000 pounds or greater but less than 24,000 pounds, including enforcement tolerances, on any vehicle referred to in paragraph (1) in any case in which the vehicle is using the Interstate System.''

TEMPORARY EXEMPTION FOR FIREFIGHTING VEHICLES

Section 1023(e) of Pub. L. 102–240 provided that:

''(1) TEMPORARY EXEMPTION.—The second sentence of section 127 of title 23, United States Code, relating to axle weight limitations and the bridge formula for vehicles using the National System of Interstate and Defense Highways, shall not apply, in the 2-year period beginning on the date of the enactment of this Act [Dec. 18, 1991], to any existing vehicle which is used for the purpose of protecting persons and property from fires and other disasters that threaten public safety and which is in actual operation before such date of enactment and to any new vehicle to be used for such purpose while such vehicle is being delivered to a firefighting agency. The Secretary may extend such 2-year period for an additional year.

''(2) STUDY.—The Secretary shall conduct a study—

''(A) of State laws regulating the use on the National System of Interstate and Defense Highways [now Dwight D. Eisenhower System of Interstate and Defense Highways] of vehicles which are used for the purpose of protecting persons and property from fires and other disasters that threaten public safety and which are being delivered to or operated by a firefighting agency; and

''(B) of the issuance of permits by States which exempt such vehicles from the requirements of the second sentence of section 127 of title 23, United States Code.

''(3) PURPOSES.—The purposes of the study under this subsection are to determine whether or not such State laws and such section 127 need to be modified with regard to such vehicles and whether or not a permanent exemption should be made for such vehicles from the requirements of such laws and section 127 or whether or not the bridge formula set forth in such section should be modified as it applies to such vehicles.

''(4) REPORT.—Not later than 18 months after the date of the enactment of this Act [Dec. 18, 1991], the Secretary shall submit to the Congress a report on the results of the study conducted under paragraph (2), together with recommendations.''

STUDY PERTAINING TO TRANSPORTERS OF WATER WELL DRILLING RIGS

Section 1023(g) of Pub. L. 102–240 directed Secretary to conduct a study of State and Federal regulations pertaining to transporters of water well drilling rigs on public highways for the purpose of identifying requirements which place a burden on such transporters without enhancing safety or preservation of public highways, and, not later than 2 years after Dec. 18, 1991, report to Congress on the results of the study, together with any legislative and administrative recommendations.

MOTOR VEHICLE STUDY BY TRANSPORTATION RESEARCH BOARD; REPORT

Section 158 of Pub. L. 100–17 directed Secretary, within 6 months after Apr. 2, 1987, to enter into appropriate arrangements with the Transportation Research Board of the National Academy of Sciences to conduct a study of the following motor vehicle issues, including an analysis of the impacts of the various positions that have been put forth with respect to each issue and best estimates of effects on pavement, bridges, highway revenue and cost responsibility, and highway safety, and changes in transportation costs and other measures of productivity for various segments of the trucking industry resulting from adoption of each of the positions: (1) elimination of existing, grandfather provisions of 23 U.S.C. 127 which allow higher axle loads and gross vehicle weights than the 20,000-pound single axle load limit, 34,000-pound tandem axle load limit, and 80,000-pound gross vehicle weight limit maximums authorized by Pub. L. 93–643, (2) analysis of alternative methods of determining gross vehicle weight limit and axle loadings for all types of motor carrier vehicles, (3) analysis of the bridge formula contained in 23 U.S.C. 127 in view of current vehicle configurations, pavement and bridge stresses in accord with 1986 design and construction practices, and existing bridges on and off the Interstate System, (4) establishment of nationwide policy regarding the provisions of 'reasonable access' to the National Network for combination vehicles established pursuant to Pub. L. 97–424, and (5) recommendation of appropriate treatment for specialized hauling vehicles which do not comply with the existing Federal bridge formula and submit a final report to Secretary and Congress, not later than 30 months after appropriate arrangements were entered into.

STATE-IMPOSED VEHICLE WIDTH LIMITATIONS

Pub. L. 97–369, title III, § 321, Dec. 18, 1982, 96 Stat. 1784, related to State-imposed vehicle width limitations, prior to repeal by Pub. L. 98–17, § 2, Apr. 5, 1983, 97 Stat. 60. See section 31113 of Title 49, Transportation.

STEERING AXLE STUDY; REPORT TO CONGRESS

Section 210 of Pub. L. 94–280 directed Secretary of Transportation to conduct an investigation into relationship between gross load on front steering axles of truck tractors and safety of operation of vehicle combinations of which such truck tractors are a part, such investigation to be conducted in cooperation with representatives of (A) manufacturers of truck tractors and related equipment, (B) labor, and (C) users of such equipment, and the results of such study to be reported to Congress not later than July 1, 1977.

§ 128. Public hearings

(a) Any State transportation department which submits plans for a Federal-aid highway project involving the by passing of or, going through any city, town, or village, either incorporated or unincorporated, shall certify to the Secretary that it has had public hearings, or has afforded the opportunity for such hearings, and has considered the economic and social effects of such a location, its impact on the environment, and its consistency with the goals and objectives of such urban planning as has been promulgated by the community. Any State transportation department which submits plans for an Interstate System project shall certify to the Secretary that it has had public hearings at a convenient location, or has afforded the opportunity for such hearings for the purpose of enabling persons in rural areas through or contiguous to whose property the highway will pass to express any objections they may have to the proposed locations of such highway. Such certification shall be accompanied by a report which indicates the consideration given to the economic, social, environmental and other effects of the plan or highway location or design and various alternatives which were raised during the hearing or which were otherwise considered.

(b) When hearings have been held under subsection (a), the State transportation department shall submit a copy of the transcript of said hearings to the Secretary, together with the certification and report.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 902; Pub. L. 90–495, § 24, Aug. 23, 1968, 82 Stat. 828; Pub. L. 91–605, title I, § 135, Dec. 31, 1970, 84 Stat. 1734; Pub. L. 105–178, title I, § 1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 193.)

AMENDMENTS

1998—Pub. L. 105–178 substituted ''State transportation department'' for ''State highway department'' wherever appearing.

1970—Subsec. (a). Pub. L. 91–605, § 135(a), provided for submission of a report by the State highway department involved indicating consideration given to economic, social, environmental, and other effects of the plan or highway location or design plus the various alternatives which were considered.

Subsec. (b). Pub. L. 91–605, § 135(b), inserted reference to report to be submitted by the State highway department together with the certification of public hearings.

1968—Subsec. (a). Pub. L. 90–495 inserted social effect of projects, the impact on environment, and their consistency with the goals and objectives of such urban planning as has been promulgated by the community to the list of factors to be considered by State highway departments in looking over projects involving the bypassing or passing through of municipalities.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–495 effective Aug. 23, 1968, see section 37 of Pub. L. 90–495, set out as a note under section 101 of this title.

§ 129. Toll roads, bridges, tunnels, and ferries

(a) BASIC PROGRAM.—

(1) AUTHORIZATION FOR FEDERAL PARTICIPATION.—Notwithstanding section 301 of this title and subject to the provisions of this section, the Secretary shall permit Federal participation in—

(A) initial construction of a toll highway, bridge, or tunnel (other than a highway, bridge, or tunnel on the Interstate System) or approach thereto;

(B) reconstructing, resurfacing, restoring, and rehabilitating a toll highway, bridge, or tunnel (including a toll highway, bridge, or tunnel subject to an agreement entered into under this section or section 119(e) as in effect on the day before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991) or approach thereto;

(C) reconstruction or replacement of a toll-free bridge or tunnel and conversion of the bridge or tunnel to a toll facility;

(D) reconstruction of a toll-free Federal-aid highway (other than a highway on the Interstate System) and conversion of the highway to a toll facility; and

(E) preliminary studies to determine the feasibility of a toll facility for which Federal participation is authorized under subparagraph (A), (B), (C), or (D);

on the same basis and in the same manner as in the construction of free highways under this chapter.

(2) OWNERSHIP.—Each highway, bridge, tunnel, or approach thereto constructed under this subsection must—

(A) be publicly owned, or

(B) be privately owned if the public authority having jurisdiction over the highway, bridge, tunnel, or approach has entered into a contract with a private person or persons to design, finance, construct, and operate the facility and the public authority will be responsible for complying with all applicable requirements of this title with respect to the facility.

(3) LIMITATIONS ON USE OF REVENUES.—Before the Secretary may permit Federal participation under this subsection in construction of a highway, bridge, or tunnel located in a State, the public authority (including the State transportation department) having jurisdiction over the highway, bridge, or tunnel must enter into an agreement with the Secretary which provides that all toll revenues received from operation of the toll facility will be used first for debt service, for reasonable return on investment of any private person financing the project, and for the costs necessary for the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation. If the State certifies annually that the tolled facility is being adequately maintained, the State may use any toll revenues in excess of amounts required under the preceding sentence for any purpose for which Federal funds may be obligated by a State under this title.

(4) SPECIAL RULE FOR FUNDING.—In the case of a toll highway, bridge, or tunnel under the jurisdiction of a public authority of a State (other than the State transportation department), upon request of the State transportation department and subject to such terms and conditions as such department and public authority may agree, the Secretary shall re-

imburse such public authority for the Federal share of the costs of construction of the project carried out on the toll facility under this subsection in the same manner and to the same extent as such department would be reimbursed if such project was being carried out by such department. The reimbursement of funds under this paragraph shall be from sums apportioned to the State under this chapter and available for obligations on projects on the Federal-aid system in such State on which the project is being carried out.

(5) LIMITATION ON FEDERAL SHARE.—The Federal share payable for a project described in paragraph (1) shall be a percentage determined by the State but not to exceed 80 percent.

(6) MODIFICATIONS.—If a public authority (including a State transportation department) having jurisdiction over a toll highway, bridge, or tunnel subject to an agreement under this section or section 119(e), as in effect on the day before the effective date of title I of the Intermodal Surface Transportation Efficiency Act of 1991, requests modification of such agreement, the Secretary shall modify such agreement to allow the continuation of tolls in accordance with paragraph (3) without repayment of Federal funds.

(7) LOANS.—

(A) IN GENERAL.—A State may loan to a public or private entity constructing or proposing to construct under this section a toll facility or non-toll facility with a dedicated revenue source an amount equal to all or part of the Federal share of the cost of the project if the project has a revenue source specifically dedicated to it. Dedicated revenue sources for non-toll facilities include excise taxes, sales taxes, motor vehicle use fees, tax on real property, tax increment financing, and such other dedicated revenue sources as the Secretary determines appropriate.

(B) COMPLIANCE WITH FEDERAL LAWS.—As a condition of receiving a loan under this paragraph, the public or private entity that receives the loan shall ensure that the project will be carried out in accordance with this title and any other applicable Federal law, including any applicable provision of a Federal environmental law.

(C) SUBORDINATION OF DEBT.—The amount of any loan received for a project under this paragraph may be subordinated to any other debt financing for the project.

(D) OBLIGATION OF FUNDS LOANED.—Funds loaned under this paragraph may only be obligated for projects under this paragraph.

(E) REPAYMENT.—The repayment of a loan made under this paragraph shall commence not later than 5 years after date on which the facility that is the subject of the loan is open to traffic.

(F) TERM OF LOAN.—The term of a loan made under this paragraph shall not exceed 30 years from the date on which the loan funds are obligated.

(G) INTEREST.—A loan made under this paragraph shall bear interest at or below market interest rates, as determined by the State, to make the project that is the subject of the loan feasible.

(H) REUSE OF FUNDS.—Amounts repaid to a State from a loan made under this paragraph may be obligated—

(i) for any purpose for which the loan funds were available under this title; and

(ii) for the purchase of insurance or for use as a capital reserve for other forms of credit enhancement for project debt in order to improve credit market access or to lower interest rates for projects eligible for assistance under this title.

(I) GUIDELINES.—The Secretary shall establish procedures and guidelines for making loans under this paragraph.

(8) INITIAL CONSTRUCTION DEFINED.—For purposes of this subsection, the term ''initial construction'' means the construction of a highway, bridge, or tunnel at any time before it is open to traffic and does not include any improvement to a highway, bridge, or tunnel after it is open to traffic.

(b) Notwithstanding the provisions of section 301 of this title, the Secretary may permit Federal participation under this title in the construction of a project constituting an approach to a ferry, whether toll or free, the route of which is a public road and has not been designated as a route on the Interstate System. Such ferry may be either publicly or privately owned and operated, but the operating authority and the amount of fares charged for passage shall be under the control of a State agency or official, and all revenues derived from publicly owned or operated ferries shall be applied to payment of the cost of construction or acquisition thereof, including debt service, and to actual and necessary costs of operation, maintenance, repair, and replacement.

(c) Notwithstanding section 301 of this title, the Secretary may permit Federal participation under this title in the construction of ferry boats and ferry terminal facilities, whether toll or free, subject to the following conditions:

(1) It is not feasible to build a bridge, tunnel, combination thereof, or other normal highway structure in lieu of the use of such ferry.

(2) The operation of the ferry shall be on a route classified as a public road within the State and which has not been designated as a route on the Interstate System. Projects under this subsection may be eligible for both ferry boats carrying cars and passengers and ferry boats carrying passengers only.

(3) Such ferry boat or ferry terminal facility shall be publicly owned or operated or majority publicly owned if the Secretary determines with respect to a majority publicly owned ferry or ferry terminal facility that such ferry boat or ferry terminal facility provides substantial public benefits.

(4) The operating authority and the amount of fares charged for passage on such ferry shall be under the control of the State or other public entity, and all revenues derived therefrom shall be applied to actual and necessary costs of operation, maintenance, and[1] repair, debt service, negotiated management fees, and, in

[1] So in original. The word ''and'' probably should not appear.

the case of a privately operated toll ferry, for a reasonable rate of return.

(5) Such ferry may be operated only within the State (including the islands which comprise the State of Hawaii and the islands which comprise any territory of the United States) or between adjoining States or between a point in a State and a point in the Dominion of Canada. Except with respect to operations between the islands which comprise the State of Hawaii, operations between the islands which comprise any territory of the United States, operations between a point in a State and a point in the Dominion of Canada, and operations between any two points in Alaska and between Alaska and Washington, including stops at appropriate points in the Dominion of Canada, no part of such ferry operation shall be in any foreign or international waters.

(6) No such ferry shall be sold, leased, or otherwise disposed of without the approval of the Secretary. The Federal share of any proceeds from such a disposition shall be credited to the unprogramed balance of Federal-aid highway funds of the same class last apportioned to such State. Any amount so credited shall be in addition to all other funds then apportioned to such State and available for expenditure in accordance with the provisions of this title.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 902; Pub. L. 86–657, §§5, 8(a), July 14, 1960, 74 Stat. 523, 524; Pub. L. 90–495, §28, Aug. 23, 1968, 82 Stat. 829; Pub. L. 91–605, title I, §§133, 139, Dec. 31, 1970, 84 Stat. 1732, 1736; Pub. L. 92–434, §7, Sept. 26, 1972, 86 Stat. 732; Pub. L. 93–87, title I, §§118, 132, 139, Aug. 13, 1973, 87 Stat. 259, 267, 270; Pub. L. 93–643, §108, Jan. 4, 1975, 88 Stat. 2284; Pub. L. 94–280, title I, §121, May 5, 1976, 90 Stat. 438; Pub. L. 95–599, title I, §120, Nov. 6, 1978, 92 Stat. 2700; Pub. L. 100–17, title I, §120(a), (b), Apr. 2, 1987, 101 Stat. 157, 158; Pub. L. 100–202, §101(*l*) [title III, §347(d)], Dec. 22, 1987, 101 Stat. 1329–358, 1329–388; Pub. L. 100–457, title III, §§326, 335, Sept. 30, 1988, 102 Stat. 2150, 2153; Pub. L. 102–240, title I, §1012(a), (c), Dec. 18, 1991, 105 Stat. 1936, 1938; Pub. L. 102–388, title IV, §410, Oct. 6, 1992, 106 Stat. 1565; Pub. L. 104–59, title III, §313(a)–(c), Nov. 28, 1995, 109 Stat. 585, 586; Pub. L. 105–178, title I, §§1106(c)(1)(C), 1207(a), 1211(f), formerly 1211(g), June 9, 1998, 112 Stat. 136, 185, 189; Pub. L. 105–206, title IX, §9003(d)(5), July 22, 1998, 112 Stat. 840; Pub. L. 109–59, title I, §1801(f), Aug. 10, 2005, 119 Stat. 1456.)

REFERENCES IN TEXT

The date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (a)(1)(B), is the date of enactment of Pub. L. 102–240, which was approved Dec. 18, 1991.

For the effective date of title I of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (a)(6), see section 1100 of Pub. L. 102–240, set out as an Effective Date of 1991 Amendment note under section 104 of this title.

AMENDMENTS

2005—Subsec. (c)(5). Pub. L. 109–59 substituted ''any territory of the United States'' for ''the Commonwealth of Puerto Rico'' in two places.

1998—Subsec. (b). Pub. L. 105–178, §1106(c)(1)(C), substituted ''which is a public road and has not'' for ''which has been classified as a public road and has not'' in first sentence.

Subsec. (c)(3). Pub. L. 105–178, §1207(a), substituted ''owned or operated or majority publicly owned if the Secretary determines with respect to a majority publicly owned ferry or ferry terminal facility that such ferry boat or ferry terminal facility provides substantial public benefits.'' for ''owned.''

Subsec. (d). Pub. L. 105–178, §1211(f), formerly §1211(g), as renumbered by Pub. L. 105–206, §9003(d)(5), struck out subsec. (d) which related to pilot toll collection program.

1995—Subsec. (a)(5). Pub. L. 104–59, §313(a), amended par. (5) generally. Prior to amendment, par. (5) read as follows:

''(5) LIMITATION ON FEDERAL SHARE.—Except as otherwise provided in this paragraph, the Federal share payable for construction of a highway, bridge, tunnel, or approach thereto or conversion of a highway, bridge, or tunnel to a toll facility under this subsection shall be such percentage as the State determines but not to exceed 50 percent. The Federal share payable for construction of a new bridge, tunnel, or approach thereto or for reconstruction or replacement of a bridge, tunnel, or approach thereto shall be such percentage as the Secretary determines but not to exceed 80 percent. In the case of a toll facility subject to an agreement under section 119 or 129, the Federal share payable on any project for resurfacing, restoring, rehabilitating, or reconstructing such facility shall be 80 percent until the scheduled expiration of such agreement (as in effect on the day before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991).''

Subsec. (a)(7). Pub. L. 104–59, §313(b), amended par. (7) generally. Prior to amendment, par. (7) read as follows:

''(7) LOANS.—A State may loan all or part of the Federal share of a toll project under this section to a public or private agency constructing a toll facility. Such loan may be made only after all Federal environmental requirements have been complied with and permits obtained. The amount loaned shall be subordinated to other debt financing for the facility except for loans made by the State or any other public agency to the agency constructing the facility. Funds loaned pursuant to this section may be obligated for projects eligible under this section. The repayment of any such loan shall commence not more than 5 years after the facility has opened to traffic. Any such loan shall bear interest at the average rate the State's pooled investment fund earned in the 52 weeks preceding the start of repayment. The term of any such loan shall not exceed 30 years from the time the loan was obligated. Amounts repaid to a State from any loan made under this section may be obligated for any purpose for which the loaned funds were available. The Secretary shall establish procedures and guidelines for making such loans.''

Subsec. (c)(5). Pub. L. 104–59, §313(c), inserted before period at end of first sentence ''or between a point in a State and a point in the Dominion of Canada'' and in second sentence substituted ''Hawaii,'' for ''Hawaii and'' and inserted '', operations between a point in a State and a point in the Dominion of Canada,'' after ''Puerto Rico''.

1992—Subsec. (b). Pub. L. 102–388, §410(1), which directed the substitution of ''classified as a public road'' for ''approved under section 103(b) or (b) of this title as a part of one of the Federal-aid systems'', was executed by making the substitution for ''approved under section 103(b) or (c) of this title as a part of one of the Federal-aid systems'' to reflect the probable intent of Congress.

Subsec. (c)(2). Pub. L. 102–388, §410(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The operation of the ferry shall be on a route which has been approved under section 103(b) or (c) of this title as a part of one of the Federal-aid systems within the State and has not been designated as a route on the Interstate System.''

1991—Subsec. (a). Pub. L. 102–240, §1012(a), amended subsec. (a) generally, substituting present provisions

for provisions authorizing Federal participation in construction or acquisition of toll bridges, tunnels and approaches, provided that facility was publicly owned and operated by State or public authority, and State or authority agreed that all tolls, less those used to offset cost of operation and maintenance, were to be applied to repayment of State or authority for cost of construction or acquisition, that no tolls were to be charged after such repayment, and that facility was to be free of charge thereafter, except in case of bridge connecting United States with foreign country.

Subsec. (b). Pub. L. 102–240, §1012(c)(1), (2), redesignated subsec. (f) as (b) and struck out former subsec. (b) which authorized Secretary to approve toll roads, bridges and tunnels as part of Interstate System, authorized expenditure of Federal-aid highway funds on toll roads after they became toll-free, and required agreements between Secretary and State highway departments on construction of Interstate projects to forbid construction of toll roads, but not toll bridges and tunnels, on interstate highway route without official concurrence of Secretary, after June 30, 1968.

Subsec. (c). Pub. L. 102–240, §1012(c), redesignated subsec. (g) as (c), inserted ''and ferry terminal facilities'' after ''boats'' in introductory provisions, added par. (3) and struck out former par. (3) which read as follows: ''Such ferry shall be publicly owned and operated.'', in par. (4), inserted ''or other public entity'' after ''State'' and '', debt service, negotiated management fees, and, in the case of a privately operated toll ferry, for a reasonable rate of return'' before period at end, and struck out former subsec. (c) which made available funds authorized for expenditure on Federal-aid highway systems for projects approaching toll roads, bridges or tunnels up to point where project had use irrespective of use for toll road, bridge or tunnel.

Subsec. (d). Pub. L. 102–240, §1012(c)(1), (2), redesignated subsec. (j) as (d) and struck out former subsec. (d) which made available funds authorized for expenditure on Interstate System for Interstate System projects approaching toll road and having no other use, if agreement was reached that section of toll road would become free to public upon collection of tolls sufficient to liquidate cost of road and outstanding bonds and cost of maintenance, operation and debt service during period of toll collection, and that there was a reasonably satisfactory alternative free route available to bypass toll section.

Subsec. (e). Pub. L. 102–240, §1012(c)(1), struck out subsec. (e) which authorized Secretary to permit Federal participation in reconstruction and improvement of two-lane toll road designated as part of the Interstate System before June 30, 1973, as necessary to bring such road to standards of Interstate System, provided that toll road authority agreed that no new indebtedness to be liquidated by tolls was to be incurred, that all tolls be used for operation and maintenance and to repay outstanding bonds, and that, upon liquidation of such bonds, the road was to become free to public.

Subsecs. (f), (g). Pub. L. 102–240, §1012(c)(2), redesignated subsecs. (f) and (g) as (b) and (c), respectively.

Subsec. (h). Pub. L. 102–240, §1012(c)(1), struck out subsec. (h) which provided that, in case of interstate toll bridge on Federal-aid primary system, except Interstate System, owned by State or political subdivision, that became toll-free by Jan. 1, 1975, because of purchase or construction by State before Jan. 1, 1975, funds would be made available under section 104(b)(1) and (3) of this title to pay Federal share of lesser of value of bridge (after deducting portion of value already attributable to Federal funds) or amount by which principal amount of outstanding unpaid bonds issued for construction or acquisition of bridge exceeded amount accumulated for their amortization, on date bridge became free to public.

Subsec. (i). Pub. L. 102–240, §1012(c)(1), struck out subsec. (i) which authorized Secretary to permit Federal participation, through funds for Federal-aid highway system, other than Interstate System, in engineering and fiscal assessments, traffic analyses, network studies, etc., to determine whether privately owned toll bridges should be acquired by a State or subdivision.

Subsec. (j). Pub. L. 102–240, §1012(c)(2), redesignated subsec. (j) as (d).

Subsec. (k). Pub. L. 102–240, §1012(c)(1), struck out subsec. (k) which required operators of toll roads, tunnels, ferries and bridges on Federal-aid highway system to biennially certify to Governor of State that facilities were adequately maintained and that operator had ability to fund such facilities that were not adequately maintained without using Federal-aid highway funds, and which required Governor of each State to report biennially to Secretary on facilities required to so certify.

1988—Subsec. (j)(1), (3). Pub. L. 100–457, §335, amended Pub. L. 100–202, §101(*l*) [title III, §347(d)(1), (2)(A), (C)], see 1987 Amendment note below.

Subsec. (j)(6). Pub. L. 100–457, §326(1), inserted ''(and, in the case of the State of Texas, the Texas Turnpike Authority)'' after ''State highway department''.

Subsec. (j)(10). Pub. L. 100–457, §326(2), added par. (10).

1987—Subsec. (j). Pub. L. 100–17, §120(a), added subsec. (j).

Subsec. (j)(1). Pub. L. 100–202, §101(*l*) [title III, §347(d)(1)], as amended by Pub. L. 100–457, §335, which directed the amendment of par. (1) by substituting ''(9)'' for ''(9)'' was executed by substituting ''9'' for ''7'' as the probable intent of Congress.

Subsec. (j)(3). Pub. L. 100–202, §101(*l*) [title III, §347(d)(2)(A)], as amended by Pub. L. 100–457, §335, which directed the amendment of par. (3) by substituting ''(9)'' for ''(7)'' was executed by substituting ''9'' for ''7'' as the probable intent of Congress.

Pub. L. 100–202, §101(*l*) [title III, §347(d)(2)(B)–(D)], as amended by Pub. L. 100–457, §335, substituted ''States of Pennsylvania and West Virginia'' for ''State of Pennsylvania'' in two places and inserted ''States of Georgia and West Virginia,'' and ''The toll facility in Orange County, California, may be located in more than 1 highway corridor to relieve congestion on existing interstate routes in such County.''

Subsec. (k). Pub. L. 100–17, §120(b), added subsec. (k).

1978—Subsec. (i). Pub. L. 95–599 added subsec. (i).

1976—Subsec. (g)(5). Pub. L. 94–280 authorized ferry operations within the islands which comprise the Commonwealth of Puerto Rico and excepted ferry operations between the islands which comprise the Commonwealth of Puerto Rico from the prohibition of ferry operations in foreign or international waters.

1975—Subsec. (g)(5). Pub. L. 93–643 substituted ''operations between the islands which comprise the State of Hawaii and operations between any two points in Alaska and between Alaska and Washington, including stops at appropriate points in the Dominion of Canada'' for ''operations between the islands which comprise the State of Hawaii and operations between the States of Alaska and Washington, or between any two points within the State of Alaska''.

1973—Subsec. (b). Pub. L. 93–87, §118(a), inserted third sentence providing that when any toll road which the Secretary has approved as a part of the Interstate System is made a toll-free facility, Federal-aid highway funds apportioned under section 104(b)(5) of this title may be expended for the construction, reconstruction, or improvement of that road to meet the standards adopted for the improvement of projects located on the Interstate System.

Subsec. (e). Pub. L. 93–87, §118(b), struck from first sentence ''on the date of enactment of this subsection'' before ''as he may find necessary'' and substituted in third sentence ''1973'' for ''1968''.

Subsecs. (f), (g). Pub. L. 93–87, §139, redesignated the second subsec. (f) as (g) and in par. (5) substituted ''may be operated'' for ''shall be operated'', inserted ''(including the islands which comprise the State of Hawaii)'' after ''within the State'', and excepted operations between the islands which comprise the State of Hawaii and operations between the States of Alaska and Washington, or between any two points within the State of Alaska from the prohibition against ferry operations in foreign or international waters.

Subsec. (h). Pub. L. 93–87, §132, added subsec. (h).

1972—Subsec. (a)(3). Pub. L. 92–434 substituted ''or'' for ''and'' making text read ''maintained or operated'', and required domestic and foreign tolls for international bridges, and that the tolls be limited to amount necessary for maintenance, repair, and operation thereof.

1970—Subsec. (e). Pub. L. 91–605, §133, added subsec. (e). Former subsec. (e), pertaining to ferry approaches, redesignated (f).

Subsec. (f). Pub. L. 91–605, §§133, 139, redesignated subsec. (e), relating to ferry approaches, as (f) and added a second subsec. (f) relating to ferry boats.

1968—Subsec. (b). Pub. L. 90–495 required that, after June 30, 1968, as a condition for the addition of toll highway facilities on the Interstate System, the approval of the Secretary is required, with an affirmative finding that the construction of the road as a toll facility rather than a toll-free facility is in the public interest, but with such limitation on the construction of toll facilities not to extend to toll bridges and tunnels.

1960—Pub. L. 86–657, §5(b), included ferries in section catchline.

Subsec. (c). Pub. L. 86–657, §8(a), struck out ''under prior Acts'' after ''Funds authorized''.

Subsec. (e). Pub. L. 86–657, §5(a), added subsec. (e).

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–495 effective Aug. 23, 1968, see section 37 of Pub. L. 90–495, set out as a note under section 101 of this title.

EXPRESS LANES DEMONSTRATION PROGRAM

Pub. L. 109–59, title I, §1604(b), Aug. 10, 2005, 119 Stat. 1250, provided that:

''(1) DEFINITIONS.—In this subsection, the following definitions apply:

''(A) ELIGIBLE TOLL FACILITY.—The term 'eligible toll facility' includes—

''(i) a facility in existence on the date of enactment of this Act [Aug. 10, 2005] that collects tolls;

''(ii) a facility in existence on the date of enactment of this Act that serves high occupancy vehicles;

''(iii) a facility modified or constructed after the date of enactment of this Act to create additional tolled lane capacity (including a facility constructed by a private entity or using private funds); and

''(iv) in the case of a new lane added to a previously non-tolled facility, only the new lane.

''(B) NONATTAINMENT AREA.—The term 'nonattainment area' has the meaning given that term in section 171 of the Clean Air Act (42 U.S.C. 7501).

''(2) DEMONSTRATION PROGRAM.—Notwithstanding sections 129 and 301 of title 23, United States Code, the Secretary [of Transportation] shall carry out 15 demonstration projects during the period of fiscal years 2005 through 2009 to permit States, public authorities, or a [sic] public or private entities designated by States, to collect a toll from motor vehicles at an eligible toll facility for any highway, bridge, or tunnel, including facilities on the Interstate System—

''(A) to manage high levels of congestion;

''(B) to reduce emissions in a nonattainment area or maintenance area; or

''(C) to finance the expansion of a highway, for the purpose of reducing traffic congestion, by constructing one or more additional lanes (including bridge, tunnel, support, and other structures necessary for that construction) on the Interstate System.

''(3) LIMITATION ON USE OF REVENUES.—

''(A) USE.—

''(i) IN GENERAL.—Toll revenues received under paragraph (2) shall be used by a State, public authority, or private entity designated by a State, for—

''(I) debt service;

''(II) a reasonable return on investment of any private financing;

''(III) the costs necessary for proper operation and maintenance of any facilities under paragraph (2) (including reconstruction, resurfacing, restoration, and rehabilitation); or

''(IV) if the State, public authority, or private entity annually certifies that the tolled facility is being adequately operated and maintained, any other purpose relating to a highway or transit project carried out under title 23 or 49, United States Code.

''(B) REQUIREMENTS.—

''(i) VARIABLE PRICE REQUIREMENT.—A facility that charges tolls under this subsection may establish a toll that varies in price according to time of day or level of traffic, as appropriate to manage congestion or improve air quality.

''(ii) HOV VARIABLE PRICING REQUIREMENT.—The Secretary [of Transportation] shall require, for each high occupancy vehicle facility that charges tolls under this subsection, that the tolls vary in price according to time of day or level of traffic, as appropriate to manage congestion or improve air quality.

''(iii) HOV PASSENGER REQUIREMENTS.—Pursuant to section 166 of title 23, United States Code, a State may permit motor vehicles with fewer than two occupants to operate in high occupancy vehicle lanes as part of a variable toll pricing program established under this subsection.

''(C) AGREEMENT.—

''(i) IN GENERAL.—Before the Secretary may permit a facility to charge tolls under this subsection, the Secretary and the applicable State, public authority, or private entity designated by a State shall enter into an agreement for each facility incorporating the conditions described in subparagraphs (A) and (B).

''(ii) TERMINATION.—An agreement under clause (i) shall terminate with respect to a facility upon the decision of the State, public authority, or private entity designated by a State to discontinue the variable tolling program under this subsection for the facility.

''(iii) DEBT.—If there is any debt outstanding on a facility at the time at which the decision is made to discontinue the program under this subsection with respect to the facility, the facility may continue to charge tolls in accordance with the terms of the agreement until such time as the debt is retired.

''(D) LIMITATION ON FEDERAL SHARE.—The Federal share of the cost of a project on a facility tolled under this subsection, including a project to install the toll collection facility shall be a percentage, not to exceed 80 percent, determined by the applicable State.

''(4) ELIGIBILITY.—To be eligible to participate in the program under this subsection, a State, public authority, or private entity designated by a State shall provide to the Secretary [of Transportation]—

''(A) a description of the congestion or air quality problems sought to be addressed under the program;

''(B) a description of—

''(i) the goals sought to be achieved under the program; and

''(ii) the performance measures that would be used to gauge the success made toward reaching those goals; and

''(C) such other information as the Secretary may require.

''(5) AUTOMATION.—Fees collected from motorists using an express lane shall be collected only through the use of noncash electronic technology that optimizes the free flow of traffic on the tolled facility.

''(6) INTEROPERABILITY.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act [Aug. 10, 2005], the Secretary [of Transportation] shall promulgate a final rule specifying requirements, standards, or performance specifications for automated toll collection systems implemented under this section [enacting provisions set out as a note under this section and amending provisions set out as a note under section 149 of this title].

''(B) DEVELOPMENT.—In developing that rule, which shall be designed to maximize the interoperability of electronic collection systems, the Secretary shall, to the maximum extent practicable—

''(i) seek to accelerate progress toward the national goal of achieving a nationwide interoperable electronic toll collection system;

''(ii) take into account the use of noncash electronic technology currently deployed within an appropriate geographical area of travel and the noncash electronic technology likely to be in use within the next 5 years; and

''(iii) seek to minimize additional costs and maximize convenience to users of toll facility and to the toll facility owner or operator.

''(7) REPORTING.—

''(A) IN GENERAL.—The Secretary [of Transportation], in cooperation with State and local agencies and other program participants and with opportunity for public comment, shall—

''(i) develop and publish performance goals for each express lane project;

''(ii) establish a program for regular monitoring and reporting on the achievement of performance goals, including—

''(I) effects on travel, traffic, and air quality;

''(II) distribution of benefits and burdens;

''(III) use of alternative transportation modes; and

''(IV) use of revenues to meet transportation or impact mitigation needs.

''(B) REPORTS TO CONGRESS.—The Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

''(i) not later than 1 year after the date of enactment of this Act [Aug. 10, 2005], and annually thereafter, a report that describes in detail the uses of funds under this subsection in accordance with paragraph (8)(D) [no par. (8) has been enacted]; and

''(ii) not later than 3 years after the date of enactment of this Act, and every 3 years thereafter, a report that describes any success of the program under this subsection in meeting congestion reduction and other performance goals established for express lane programs.''

INTERSTATE SYSTEM CONSTRUCTION TOLL PILOT PROGRAM

Pub. L. 109–59, title I, §1604(c), Aug. 10, 2005, 119 Stat. 1253, provided that:

''(1) ESTABLISHMENT.—The Secretary [of Transportation] shall establish and implement an Interstate System construction toll pilot program under which the Secretary, notwithstanding sections 129 and 301 of title 23, United States Code, may permit a State or an interstate compact of States to collect tolls on a highway, bridge, or tunnel on the Interstate System for the purpose of constructing Interstate highways.

''(2) LIMITATION ON NUMBER OF FACILITIES.—The Secretary [of Transportation] may permit the collection of tolls under this section on three facilities on the Interstate System.

''(3) ELIGIBILITY.—To be eligible to participate in the pilot program, a State shall submit to the Secretary [of Transportation] an application that contains, at a minimum, the following:

''(A) An identification of the facility on the Interstate System proposed to be a toll facility.

''(B) In the case of a facility that affects a metropolitan area, an assurance that the metropolitan planning organization designated under section 134 or 135 for the area has been consulted concerning the placement and amount of tolls on the facility.

''(C) An analysis demonstrating that financing the construction of the facility with the collection of tolls under the pilot program is the most efficient and economical way to advance the project.

''(D) A facility management plan that includes—

''(i) a plan for implementing the imposition of tolls on the facility;

''(ii) a schedule and finance plan for the construction of the facility using toll revenues;

''(iii) a description of the public transportation agency that will be responsible for implementation and administration of the pilot program;

''(iv) a description of whether consideration will be given to privatizing the maintenance and operational aspects of the facility, while retaining legal and administrative control of the portion of the Interstate route; and

''(v) such other information as the Secretary may require.

''(4) SELECTION CRITERIA.—The Secretary [of Transportation] may approve the application of a State under paragraph (3) only if the Secretary determines that—

''(A) the State's analysis under paragraph (3)(C) is reasonable;

''(B) the State plan for implementing tolls on the facility takes into account the interests of local, regional, and interstate travelers;

''(C) the State plan for construction of the facility using toll revenues is reasonable;

''(D) the State will develop, manage, and maintain a system that will automatically collect the tolls; and

''(E) the State has given preference to the use of a public toll agency with demonstrated capability to build, operate, and maintain a toll expressway system meeting criteria for the Interstate System.

''(5) PROHIBITION ON NONCOMPETE AGREEMENTS.—Before the Secretary [of Transportation] may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that the State will not enter into an agreement with a private person under which the State is prevented from improving or expanding the capacity of public roads adjacent to the toll facility to address conditions resulting from traffic diverted to such roads from the toll facility, including—

''(A) excessive congestion;

''(B) pavement wear; and

''(C) an increased incidence of traffic accidents, injuries, or fatalities.

''(6) LIMITATIONS ON USE OF REVENUES; AUDITS.—Before the Secretary [of Transportation] may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that—

''(A) all toll revenues received from operation of the toll facility will be used only for—

''(i) debt service;

''(ii) reasonable return on investment of any private person financing the project; and

''(iii) any costs necessary for the improvement of and the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation of the toll facility; and

''(B) regular audits will be conducted to ensure compliance with subparagraph (A) and the results of such audits will be transmitted to the Secretary.

''(7) LIMITATION ON USE OF INTERSTATE MAINTENANCE FUNDS.—During the term of the pilot program, funds apportioned for Interstate maintenance under section 104(b)(4) of title 23, United States Code, may not be used on a facility for which tolls are being collected under the program.

''(8) PROGRAM TERM.—The Secretary [of Transportation] may approve an application of a State for permission to collect a toll under this section only if the application is received by the Secretary before the last day of the 10-year period beginning on the date of enactment of this Act [Aug. 10, 2005].

''(9) INTERSTATE SYSTEM DEFINED.—In this section, the term 'Interstate System' has the meaning such term has under section 101 of title 23, United States Code.''

NATIONAL FERRY DATABASE

Pub. L. 109–59, title I, § 1801(e), Aug. 10, 2005, 119 Stat. 1456, provided that:

''(1) ESTABLISHMENT.—The Secretary [of Transportation], acting through the Bureau of Transportation Statistics, shall establish and maintain a national ferry database.

''(2) CONTENTS.—The database shall contain current information regarding ferry systems, including information regarding routes, vessels, passengers and vehicles carried, funding sources and such other information as the Secretary considers useful.

''(3) UPDATE REPORT.—Using information collected through the database, the Secretary shall periodically modify as appropriate the report submitted under section 1207(c) of the Transportation Equity Act for the 21st Century [Pub. L. 105–178] (23 U.S.C. 129 note; 112 Stat. 185–186).

''(4) REQUIREMENTS.—The Secretary shall—

''(A) compile the database not later than 1 year after the date of enactment of this Act [Aug. 10, 2005] and update the database every 2 years thereafter;

''(B) ensure that the database is easily accessible to the public; and

''(C) make available, from the amounts made available for the Bureau of Transportation Statistics by section 5101 of this Act [119 Stat. 1779], not more than $500,000 for each of fiscal years 2006 through 2009 to establish and maintain the database.''

FERRY TRANSPORTATION STUDY

Pub. L. 105–178, title I, § 1207(c), June 9, 1998, 112 Stat. 185, provided that:

''(1) IN GENERAL.—The Secretary shall conduct a study of ferry transportation in the United States and its possessions—

''(A) to identify existing ferry operations, including—

''(i) the locations and routes served; and

''(ii) the source and amount, if any, of funds derived from Federal, State, or local government sources supporting ferry construction or operations;

''(B) to identify potential domestic ferry routes in the United States and its possessions and to develop information on those routes; and

''(C) to identify the potential for use of high-speed ferry services and alternative-fueled ferry services.

''(2) REPORT.—The Secretary shall submit a report on the results of the study to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.''

INTERSTATE SYSTEM RECONSTRUCTION AND REHABILITATION PILOT PROGRAM

Pub. L. 105–178, title I, § 1216(b), June 9, 1998, 112 Stat. 212, provided that:

''(1) ESTABLISHMENT.—The Secretary shall establish and implement an Interstate System reconstruction and rehabilitation pilot program under which the Secretary, notwithstanding sections 129 and 301 of title 23, United States Code, may permit a State to collect tolls on a highway, bridge, or tunnel on the Interstate System for the purpose of reconstructing and rehabilitating Interstate highway corridors that could not otherwise be adequately maintained or functionally improved without the collection of tolls.

''(2) LIMITATION ON NUMBER OF FACILITIES.—The Secretary may permit the collection of tolls under this subsection on 3 facilities on the Interstate System. Each of such facilities shall be located in a different State.

''(3) ELIGIBILITY.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that contains, at a minimum, the following:

''(A) An identification of the facility on the Interstate System proposed to be a toll facility, including the age, condition, and intensity of use of the facility.

''(B) In the case of a facility that affects a metropolitan area, an assurance that the metropolitan planning organization established under section 134 of title 23, United States Code, for the area has been consulted concerning the placement and amount of tolls on the facility.

''(C) An analysis demonstrating that the facility could not be maintained or improved to meet current or future needs from the State's apportionments and allocations made available by this Act [see Tables for classification] (including amendments made by this Act) and from revenues for highways from any other source without toll revenues.

''(D) A facility management plan that includes—

''(i) a plan for implementing the imposition of tolls on the facility;

''(ii) a schedule and finance plan for the reconstruction or rehabilitation of the facility using toll revenues;

''(iii) a description of the public transportation agency that will be responsible for implementation and administration of the pilot program;

''(iv) a description of whether consideration will be given to privatizing the maintenance and operational aspects of the facility, while retaining legal and administrative control of the portion of the Interstate route; and

''(v) such other information as the Secretary may require.

''(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under paragraph (3) only if the Secretary determines that—

''(A) the State is unable to reconstruct or rehabilitate the proposed toll facility using existing apportionments;

''(B) the facility has a sufficient intensity of use, age, or condition to warrant the collection of tolls;

''(C) the State plan for implementing tolls on the facility takes into account the interests of local, regional, and interstate travelers;

''(D) the State plan for reconstruction or rehabilitation of the facility using toll revenues is reasonable; and

''(E) the State has given preference to the use of a public toll agency with demonstrated capability to build, operate, and maintain a toll expressway system meeting criteria for the Interstate System.

''(5) LIMITATIONS ON USE OF REVENUES; AUDITS.—Before the Secretary may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that—

''(A) all toll revenues received from operation of the toll facility will be used only for—

''(i) debt service;

''(ii) reasonable return on investment of any private person financing the project; and

''(iii) any costs necessary for the improvement of and the proper operation and maintenance of the

toll facility, including reconstruction, resurfacing, restoration, and rehabilitation of the toll facility; and

''(B) regular audits will be conducted to ensure compliance with subparagraph (A) and the results of such audits will be transmitted to the Secretary.

''(6) LIMITATION ON USE OF INTERSTATE MAINTENANCE FUNDS.—During the term of the pilot program, funds apportioned for Interstate maintenance under section 104(b)(4) of title 23, United States Code, may not be used on a facility for which tolls are being collected under the program.

''(7) PROGRAM TERM.—The Secretary shall conduct the pilot program under this subsection for a term to be determined by the Secretary, but not less than 10 years.

''(8) INTERSTATE SYSTEM DEFINED.—In this subsection, the term 'Interstate System' has the meaning such term has under section 101 of title 23, United States Code.''

CONTINUATION OF EXISTING AGREEMENTS

Section 1012(d) of title I of Pub. L. 102–240 provided that: ''Unless modified under section 129(a)(6) of such title [this title], as amended by subsection (a) of this section, agreements entered into under section 119(e) or 129 of such title before the effective date of this title [Dec. 18, 1991] and in effect on the day before such effective date shall continue in effect on and after such effective date in accordance with the provisions of such agreement and such section 119(e) or 129.''

CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES

Pub. L. 102–240, title I, § 1064, Dec. 18, 1991, 105 Stat. 2005, as amended by Pub. L. 102–388, title III, § 332, Oct. 6, 1992, 106 Stat. 1550; Pub. L. 105–178, title I, § 1207(b), June 9, 1998, 112 Stat. 185, which directed the Secretary to carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c) of this title, was repealed by Pub. L. 109–59, title I, § 1801(c), Aug. 10, 2005, 119 Stat. 1456. See section 147 of this title.

STUDY TO DETERMINE EXTENT OF BONDED INDEBTEDNESS OF STATES FOR CONSTRUCTION OF TOLL ROADS INCORPORATED INTO INTERSTATE SYSTEM

Section 164 of Pub. L. 95–599, as amended by Pub. L. 96–106, § 16, Nov. 19, 1979, 93 Stat. 798, directed Secretary of Transportation to report not later than July 1, 1980, respecting extent of outstanding bonded indebtedness for each State as of Jan. 1, 1979, incurred by each State or public authority prior to June 29, 1956, for road construction or portions incorporated within Interstate System, and methods of allocating bonded indebtedness and removal of toll provisions.

RICHMOND-PETERSBURG TURNPIKE

Section 131 of Pub. L. 91–605 provided that: ''The Secretary of Transportation is authorized to amend any agreement heretofore entered into under the provisions of section 129(d) of title 23, United States Code, in order to permit the continuation of tolls on the existing Richmond-Petersburg Turnpike to finance the construction within the existing termini of such turnpike of two lanes thereon in addition to the lanes in existence on the date of enactment of this section [Dec. 31, 1970] necessary to meet traffic and highway safety requirements. Any amended agreement entered into for such purposes shall provide assurances that the existing turnpike (including the additional lanes) shall become free to the public upon the collection of tolls sufficient to liquidate all construction costs, and the costs of maintenance, operation, and debt service during the period of toll collections to liquidate such construction costs, but in no event shall tolls be collected after date of maturity of those bonds outstanding on the date of enactment of this section [Dec. 31, 1970] issued for construction of such turnpike having the latest maturity date.''

§ 130. Railway-highway crossings

(a) Subject to section 120 and subsection (b) of this section, the entire cost of construction of projects for the elimination of hazards of railway-highway crossings, including the separation or protection of grades at crossings, the reconstruction of existing railroad grade crossing structures, and the relocation of highways to eliminate grade crossings, may be paid from sums apportioned in accordance with section 104 of this title. In any case when the elimination of the hazards of a railway-highway crossing can be effected by the relocation of a portion of a railway at a cost estimated by the Secretary to be less than the cost of such elimination by one of the methods mentioned in the first sentence of this section, then the entire cost of such relocation project, subject to section 120 and subsection (b) of this section, may be paid from sums apportioned in accordance with section 104 of this title.

(b) The Secretary may classify the various types of projects involved in the elimination of hazards of railway-highway crossings, and may set for each such classification a percentage of the costs of construction which shall be deemed to represent the net benefit to the railroad or railroads for the purpose of determining the railroad's share of the cost of construction. The percentage so determined shall in no case exceed 10 per centum. The Secretary shall determine the appropriate classification of each project.

(c) Any railroad involved in a project for the elimination of hazards of railway-highway crossings paid for in whole or in part from sums made available for expenditure under this title, or prior Acts, shall be liable to the United States for the net benefit to the railroad determined under the classification of such project made pursuant to subsection (b) of this section. Such liability to the United States may be discharged by direct payment to the State transportation department of the State in which the project is located, in which case such payment shall be credited to the cost of the project. Such payment may consist in whole or in part of materials and labor furnished by the railroad in connection with the construction of such project. If any such railroad fails to discharge such liability within a six-month period after completion of the project, it shall be liable to the United States for its share of the cost, and the Secretary shall request the Attorney General to institute proceedings against such railroad for the recovery of the amount for which it is liable under this subsection. The Attorney General is authorized to bring such proceedings on behalf of the United States, in the appropriate district court of the United States, and the United States shall be entitled in such proceedings to recover such sums as it is considered and adjudged by the court that such railroad is liable for in the premises. Any amounts recovered by the United States under this subsection shall be credited to miscellaneous receipts.

(d) SURVEY AND SCHEDULE OF PROJECTS.—Each State shall conduct and systematically maintain a survey of all highways to identify those railroad crossings which may require separation, relocation, or protective devices, and es-

tablish and implement a schedule of projects for this purpose. At a minimum, such a schedule shall provide signs for all railway-highway crossings.

(e) FUNDS FOR PROTECTIVE DEVICES.—

(1) IN GENERAL.—Before making an apportionment under section 104(b)(5) for a fiscal year, the Secretary shall set aside, from amounts made available to carry out the highway safety improvement program under section 148 for such fiscal year, at least $220,000,000 for the elimination of hazards and the installation of protective devices at railway-highway crossings. At least ½ of the funds authorized for and expended under this section shall be available for the installation of protective devices at railway-highway crossings. Sums authorized to be appropriated to carry out this section shall be available for obligation in the same manner as funds apportioned under section 104(b)(1) of this title.

(2) SPECIAL RULE.—If a State demonstrates to the satisfaction of the Secretary that the State has met all its needs for installation of protective devices at railway-highway crossings, the State may use funds made available by this section for other highway safety improvement program purposes.

(f) APPORTIONMENT.—

(1) FORMULA.—Fifty percent of the funds set aside to carry out this section pursuant to subsection (e)(1) shall be apportioned to the States in accordance with the formula set forth in section 104(b)(3)(A), and 50 percent of such funds shall be apportioned to the States in the ratio that total public railway-highway crossings in each State bears to the total of such crossings in all States.

(2) MINIMUM APPORTIONMENT.—Notwithstanding paragraph (1), each State shall receive a minimum of one-half of 1 percent of the funds apportioned under paragraph (1).

(3) FEDERAL SHARE.—The Federal share payable on account of any project financed with funds set aside to carry out this section shall be 90 percent of the cost thereof.

(g) ANNUAL REPORT.—Each State shall report to the Secretary not later than December 30 of each year on the progress being made to implement the railway-highway crossings program authorized by this section and the effectiveness of such improvements. Each State report shall contain an assessment of the costs of the various treatments employed and subsequent accident experience at improved locations. The Secretary shall submit a report to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation,[1] of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, not later than April 1, 2006, and every 2 years thereafter,,[1] on the progress being made by the State in implementing projects to improve railway-highway crossings. The report shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, road system, nature of treatment, and subsequent accident experience at improved locations. In addition, the Secretary's report shall analyze and evaluate each State program, identify any State found not to be in compliance with the schedule of improvements required by subsection (d) and include recommendations for future implementation of the railroad highway[2] crossings program.

(h) USE OF FUNDS FOR MATCHING.—Funds authorized to be appropriated to carry out this section may be used to provide a local government with funds to be used on a matching basis when State funds are available which may only be spent when the local government produces matching funds for the improvement of railway-highway crossings.

(i) INCENTIVE PAYMENTS FOR AT-GRADE CROSSING CLOSURES.—

(1) IN GENERAL.—Notwithstanding any other provision of this section and subject to paragraphs (2) and (3), a State may, from sums available to the State under this section, make incentive payments to local governments in the State upon the permanent closure by such governments of public at-grade railway-highway crossings under the jurisdiction of such governments.

(2) INCENTIVE PAYMENTS BY RAILROADS.—A State may not make an incentive payment under paragraph (1) to a local government with respect to the closure of a crossing unless the railroad owning the tracks on which the crossing is located makes an incentive payment to the government with respect to the closure.

(3) AMOUNT OF STATE PAYMENT.—The amount of the incentive payment payable to a local government by a State under paragraph (1) with respect to a crossing may not exceed the lesser of—

(A) the amount of the incentive payment paid to the government with respect to the crossing by the railroad concerned under paragraph (2); or

(B) $7,500.

(4) USE OF STATE PAYMENTS.—A local government receiving an incentive payment from a State under paragraph (1) shall use the amount of the incentive payment for transportation safety improvements.

(j) BICYCLE SAFETY.—In carrying out projects under this section, a State shall take into account bicycle safety.

(k) EXPENDITURE OF FUNDS.—Not more than 2 percent of funds apportioned to a State to carry out this section may be used by the State for compilation and analysis of data in support of activities carried out under subsection (g).

(*l*) NATIONAL CROSSING INVENTORY.—

(1) INITIAL REPORTING OF CROSSING INFORMATION.—Not later than 1 year after the date of enactment of the Rail Safety Improvement Act of 2008 or within 6 months of a new crossing becoming operational, whichever occurs later, each State shall report to the Secretary of Transportation current information, including information about warning devices and signage, as specified by the Secretary, concerning each previously unreported public crossing located within its borders.

[1] So in original.

[2] So in original. Probably should be ''railroad-highway''.

(2) PERIODIC UPDATING OF CROSSING INFORMATION.—On a periodic basis beginning not later than 2 years after the date of enactment of the Rail Safety Improvement Act of 2008 and on or before September 30 of every year thereafter, or as otherwise specified by the Secretary, each State shall report to the Secretary current information, including information about warning devices and signage, as specified by the Secretary, concerning each public crossing located within its borders.

(3) RULEMAKING AUTHORITY.—The Secretary shall prescribe the regulations necessary to implement this subsection. The Secretary may enforce each provision of the Department of Transportation's statement of the national highway-rail crossing inventory policy, procedures, and instructions for States and railroads that is in effect on the date of enactment of the Rail Safety Improvement Act of 2008, until such provision is superseded by a regulation issued under this subsection.

(4) DEFINITIONS.—In this subsection—

(A) ''public crossing'' means a location within a State, other than a location where one or more railroad tracks cross one or more railroad tracks either at grade or grade-separated, where—

(i) a public highway, road, or street, including associated sidewalks and pathways, crosses one or more railroad tracks either at grade or grade-separated; or

(ii) a publicly owned pathway explicitly authorized by a public authority or a railroad carrier and dedicated for the use of non-vehicular traffic, including pedestrians, bicyclists, and others, that is not associated with a public highway, road, or street, or a private roadway, crosses one or more railroad tracks either at grade or grade-separated; and

(B) ''State'' means a State of the United States, the District of Columbia, or Puerto Rico.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 903; Pub. L. 100–17, title I, § 121(a), Apr. 2, 1987, 101 Stat. 159; Pub. L. 104–59, title III, § 325(a), Nov. 28, 1995, 109 Stat. 591; Pub. L. 104–205, title III, § 353(b), Sept. 30, 1996, 110 Stat. 2980; Pub. L. 105–178, title I, §§ 1111(d), 1202(d), 1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 146, 170, 193; Pub. L. 109–59, title I, § 1401(c), formerly § 1401(d), Aug. 10, 2005, 119 Stat. 1226, renumbered § 1401(c), Pub. L. 110–244, title I, § 101(s)(1), June 6, 2008, 122 Stat. 1577; Pub. L. 110–244, title I, § 101(*l*), June 6, 2008, 122 Stat. 1575; Pub. L. 110–432, div. A, title II, § 204(c), Oct. 16, 2008, 122 Stat. 4871.)

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsec. (*l*)(1) to (3), is the date of enactment of div. A of Pub. L. 110–432, which was approved Oct. 16, 2008.

AMENDMENTS

2008—Subsec. (e)(2). Pub. L. 110–244, § 101(*l*), substituted ''highway safety improvement program purposes'' for ''purposes under this subsection''.

Subsec. (*l*). Pub. L. 110–432 added subsec. (*l*).

2005—Subsec. (e). Pub. L. 109–59, § 1401(c)(1), formerly § 1401(d)(1), as renumbered by Pub. L. 110–244, § 101(s)(1), designated existing provisions as par. (1), inserted after par. designation ''IN GENERAL.—Before making an apportionment under section 104(b)(5) for a fiscal year, the Secretary shall set aside, from amounts made available to carry out the highway safety improvement program under section 148 for such fiscal year, at least $220,000,000 for the elimination of hazards and the installation of protective devices at railway-highway crossings.'', and added par. (2).

Subsec. (f). Pub. L. 109–59, § 1401(c)(2), formerly § 1401(d)(2), as renumbered by Pub. L. 110–244, § 101(s)(1), reenacted heading without change and amended text of subsec. (f) generally. Prior to amendment, text read as follows: ''Twenty-five percent of the funds authorized to be appropriated to carry out this section shall be apportioned to the States in the same manner as sums are apportioned under section 104(b)(2) of this title, 25 percent of such funds shall be apportioned to the States in the same manner as sums are apportioned under section 104(b)(6) of this title, and 50 percent of such funds shall be apportioned to the States in the ratio that total railway-highway crossings in each State bears to the total of such crossings in all States. The Federal share payable on account of any project financed with funds authorized to be appropriated to carry out this section shall be 90 percent of the cost thereof.''

Subsec. (g). Pub. L. 109–59, § 1401(c)(3), formerly § 1401(d)(3), as renumbered by Pub. L. 110–244, § 101(s)(1), in third sentence inserted ''and the Committee on Commerce, Science, and Transportation,'' after ''Public Works'' and substituted '', not later than April 1, 2006, and every 2 years thereafter,'' for ''not later than April 1 of each year''.

Subsec. (k). Pub. L. 109–59, § 1401(c)(4), formerly § 1401(d)(4), as renumbered by Pub. L. 110–244, § 101(s)(1), added subsec. (k).

1998—Subsec. (a). Pub. L. 105–178, § 1111(d), substituted ''Subject to section 120'' for ''Except as provided in subsection (d) of section 120 of this title'' in first sentence and ''subject to section 120'' for ''except as provided in subsection (d) of section 120 of this title'' in second sentence.

Subsec. (c). Pub. L. 105–178, § 1212(a)(2)(A)(i), substituted ''State transportation department'' for ''State highway department''.

Subsec. (j). Pub. L. 105–178, § 1202(d), added subsec. (j).

1996—Subsec. (i). Pub. L. 104–205 added subsec. (i).

1995—Subsec. (g). Pub. L. 104–59 substituted ''Committee on Transportation and Infrastructure'' for ''Committee on Public Works and Transportation'' in third sentence.

1987—Subsecs. (d) to (h). Pub. L. 100–17 added subsecs. (d) to (h).

FEDERAL SHARE OF COSTS FOR CONSTRUCTION TO ELIMINATE HAZARDS

Pub. L. 106–246, div. B, title II, § 2604, July 13, 2000, 114 Stat. 559, provided that: ''Notwithstanding any other provision of law, hereafter, funds apportioned under section 104(b)(3) of title 23 which are applied to projects involving the elimination of hazards of railway-highway crossings, including the separation or protection of grades at crossings, the reconstruction of existing railroad grade crossing structures, and the relocation of highways to eliminate grade crossings, may have a Federal share up to 100 percent of the cost of construction.''

FEDERAL-STATE COOPERATION

Section 351(b), (c) of Pub. L. 104–59 provided that:

''(b) SAFETY ENFORCEMENT.—

''(1) COOPERATION BETWEEN FEDERAL AND STATE AGENCIES.—The National Highway Traffic Safety Administration and the Office of Motor Carriers within the Federal Highway Administration shall cooperate and work, on a continuing basis, with the National Association of Governors' Highway Safety Representatives, the Commercial Vehicle Safety Alliance, and Operation Lifesaver, Inc., to improve compliance

with and enforcement of laws and regulations pertaining to railroad-highway grade crossings.

''(2) REPORT.—Not later than June 1, 1998, the Secretary shall submit to Congress a report indicating—

''(A) how the Department of Transportation worked with the entities referred to in paragraph (1) to improve the awareness of the highway and commercial vehicle safety and law enforcement communities of regulations and safety challenges at railroad-highway grade crossings; and

''(B) how resources are being allocated to better address these challenges and enforce such regulations.

''(c) FEDERAL-STATE PARTNERSHIP.—

''(1) STATEMENT OF POLICY.—

''(A) HAZARDS TO SAFETY.—Certain railroad-highway grade crossings present inherent hazards to the safety of railroad operations and to the safety of persons using those crossings. It is in the public interest—

''(i) to promote grade crossing safety and reduce risk at high risk railroad-highway grade crossings; and

''(ii) to reduce the number of grade crossings while maintaining the reasonable mobility of the American people and their property, including emergency access.

''(B) EFFECTIVE PROGRAMS.—Effective programs to reduce the number of unneeded and unsafe railroad-highway grade crossings require the partnership of Federal, State, and local officials and agencies, and affected railroads.

''(C) HIGHWAY PLANNING.—Promotion of a balanced national transportation system requires that highway planning specifically take into consideration grade crossing safety.

''(2) PARTNERSHIP AND OVERSIGHT.—The Secretary shall encourage each State to make progress toward achievement of the purposes of this subsection.''

VEHICLE PROXIMITY ALERT SYSTEM

Pub. L. 102–240, title I, §1072, Dec. 18, 1991, 105 Stat. 2012, provided that: ''The Secretary shall coordinate the field testing of the vehicle proximity alert system and comparable systems to determine their feasibility for use by priority vehicles as an effective railroad-highway grade crossing safety device. In the event the vehicle proximity alert or a comparable system proves to be technologically and economically feasible, the Secretary shall develop and implement appropriate programs under section 130 of title 23, United States Code, to provide for installation of such devices where appropriate.''

RAILWAY-HIGHWAY CROSSING HAZARDS; NATIONAL HIGHWAY INFORMATION PROGRAM FUNDING

Pub. L. 100–457, title III, §324, Sept. 30, 1988, 102 Stat. 2150, provided that: ''Notwithstanding any other provision of law, the Secretary shall make available $250,000 per year for a national public information program to educate the public of the inherent hazard at railway-highway crossings. Such funds shall be made available out of funds authorized to be appropriated out of the Highway Trust Fund, pursuant to section 130 of title 23, United States Code.''

Similar provisions were contained in the following prior appropriation act:

Pub. L. 100–202, §101(*l*) [title III, §339], Dec. 22, 1987, 101 Stat. 1329–358, 1329–386.

RAILROAD-HIGHWAY CROSSINGS STUDY AND REPORT

Section 159 of Pub. L. 100–17 directed Secretary of Transportation to conduct a study of national highway-railroad crossing improvement and maintenance needs, with Secretary to consult with State highway administrations, the Association of American Railroads, highway safety groups, and any other appropriate entities in carrying out this study, and directed Secretary, not later than 24 months after Apr. 2, 1987, to submit a final report to Congress on results of the study along with recommendations of how crossing needs can be addressed in a cost effective manner.

STUDY AND INVESTIGATION OF ALLEVIATION OF ENVIRONMENTAL, SOCIAL, ETC., IMPACTS OF INCREASED UNIT TRAIN TRAFFIC

Pub. L. 95–599, title I, §162, Nov. 6, 1978, 92 Stat. 2720, authorized Secretary of Transportation, in cooperation with State highway departments and appropriate officials of local government, to undertake a comprehensive investigation and study of techniques for alleviating the environmental, social, economic, and developmental impacts of increased unit train traffic to meet national energy requirements in communities located along rail corridors experiencing such increased traffic and directed Secretary to report to Congress on results of such investigation and study not later than Mar. 31, 1979.

DEMONSTRATION PROJECT, RAILROAD-HIGHWAY CROSSINGS; REPORTS TO PRESIDENT AND CONGRESS; APPROPRIATIONS AUTHORIZATION; HIGHWAY SAFETY STUDY, REPORT TO CONGRESS

Pub. L. 93–87, title I, §163, Aug. 13, 1973, 87 Stat. 280, as amended by Pub. L. 93–643, §104, Jan. 4, 1975, 88 Stat. 2282; Pub. L. 94–280, title I, §140(a)–(e), May 5, 1976, 90 Stat. 444; Pub. L. 95–599, title I, §134(a)–(c), Nov. 6, 1978, 92 Stat. 2709; Pub. L. 96–470, title II, §209(b), Oct. 19, 1980, 94 Stat. 2245; Pub. L. 97–424, title I, §151, Jan. 6, 1983, 96 Stat. 2132; Pub. L. 100–17, title I, §§133(c)(3), 148, Apr. 2, 1987, 101 Stat. 172, 181; Pub. L. 100–202, §101(*l*) [title III, §346], Dec. 22, 1987, 101 Stat. 1329–358, 1329–388; Pub. L. 102–240, title I, §1037, Dec. 18, 1991, 105 Stat. 1987; Pub. L. 104–66, title I, §1121(e), Dec. 21, 1995, 109 Stat. 724, provided that:

''(a)(1) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out demonstration projects in Lincoln, Nebraska, Wheeling, West Virginia, and Elko, Nevada, for the relocation of railroad lines from the central area of the cities in conformance with the methodology developed under proposals submitted to the Secretary by the respective cities. The cities shall (1) have a local agency with legal authority to relocate railroad facilities, levy taxes for such purpose, and a record of prior accomplishment; and (2) have a current relocation plan for such lines which has a favorable benefit-cost ratio involving and having the unanimous approval of three or more class 1 railroads in Lincoln, Nebraska, and the two class 1 railroads in Wheeling, West Virginia, and Elko, Nevada, and multicivic, local, and State agencies, and which provides for the elimination of a substantial number of the existing railway-road conflict points within the city.

''(2) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Lafayette, Indiana, for relocation of railroad lines from the central area of the city. There are authorized to be appropriated to carry out this paragraph $360,000 for the fiscal year ending June 30, 1975.

''(b) The Secretary of Transportation shall carry out a demonstration project for the elimination or protection of certain public ground-level rail-highway crossings in, or in the vicinity of, Springfield, Illinois.

''(c) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out demonstration projects in Brownsville, Texas, and Matamoros, Mexico, for the relocation of railroad lines from the central area of the cities in conformance with the methodology developed under proposals submitted to the Secretary by the Brownsville Navigation District, providing for the construction of an international bridge and for the elimination of a substantial number of existing railway-road conflict points within the cities.

''(d) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a

demonstration project in East Saint Louis, Illinois, for the relocation of rail lines between Thirteenth and Forty-third Streets, in accordance with methodology approved by the Secretary. The Secretary of Transportation shall carry out a demonstration project for the relocation of rail lines in the vicinity of Carbondale, Illinois.

''(e) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in New Albany, Indiana, for the elimination of the existing rail loop and relocation of rail lines to a location between Vincennes Street and East Eighth Street, in accordance with methodology approved by the Secretary.

''(f) The Secretary of Transportation shall carry out demonstration projects for the construction of an overpass at the rail-highway grade crossing on Cottage Grove Avenue between One Hundred Forty-second Street and One Hundred Thirty-eighth Street in the village of Dolton, Illinois, and the construction of an overpass at the rail-highway grade crossing at Vermont Street and the Rock Island Railroad tracks in the city of Blue Island, Illinois.

''(g) The Secretary of Transportation shall carry out a demonstration project for the elimination of the ground level railroad highway crossing on United States Route 69 in Greenville, Texas.

''(h) The Secretary of Transportation shall carry out a demonstration project in Anoka, Minnesota, for the construction of an underpass at the Seventh Avenue and County Road 7 railroad-highway grade crossing.

''(i) The Secretary of Transportation shall carry out a demonstration project in Metairie, Jefferson Parish, Louisiana, for the relocation or grade separation of rail lines whichever he deems most feasible in order to eliminate certain grade level railroad highway crossings.

''(j) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Augusta, Georgia, for the relocation of railroad lines and for the purpose of eliminating highway railroad grade crossings.

''(k) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Pine Bluff, Arkansas, for the relocation of railroad lines for the purpose of eliminating highway railroad grade crossings.

''(*l*) The Secretary of Transportation shall carry out a demonstration project in Sherman, Texas, for the relocation of rail lines in order to eliminate the ground level railroad crossing at the crossing of the Southern Pacific and Frisco Railroads with Grand Avenue-Roberts Road.

''(m) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Hammond, Indiana, for the relocation of railroad lines for the purposes of eliminating highway railroad grade crossings.

''(n) The Federal share payable on account of such projects shall be the Federal share provided in section 120(a) of title 23, United States Code. [sic] except those railroad-highway crossings segments which are already engaged in or have completed the preparation of the plans, specifications and estimates (PS&E) for the construction of the segment involved shall retain the Federal share as specified in subsection [sic] 163(n) [this subsection] as amended by section 134 of the Surface Transportation Assistance Act of 1978 [section 134 of Pub. L. 95–599].

''[(*o*) Repealed. Pub. L. 104–66, title I, § 1121(e), Dec. 21, 1995, 109 Stat. 724.]

''(p) There is authorized to be appropriated to carry out this section (other than subsection (*l*)), not to exceed $15,000,000 for the fiscal year ending June 30, 1974, $25,000,000 for the fiscal year ending June 30, 1975, and $50,000,000 for the fiscal year ending June 30, 1976, $6,250,000, for the period beginning July 1, 1976, and ending September 30, 1976, $26,400,000 for the fiscal year ending September 30, 1977, and $51,400,000 for the fiscal year ending September 30, 1978, $70,000,000 for the fiscal year ending September 30, 1979, and $90,000,000 for the fiscal year ending September 30, 1980, $100,000,000 for the fiscal year ending September 30, 1981, and $100,000,000 for the fiscal year ending September 30, 1982, and $50,000,000 for the fiscal year ending September 30, 1983, and $50,000,000 for the fiscal year ending September 30, 1984, and $50,000,000 for the fiscal year ending September 30, 1985, and $50,000,000 for the fiscal year ending September 30, 1986, and $15,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, 1991, 1992, 1993, and 1994, except that not more than two-thirds of all funds authorized and expended under authority of this section in any fiscal year shall be appropriated out of the Highway Trust fund. Notwithstanding any other provision of this section, any project which is not under construction, according to the Secretary of Transportation, by September 30, 1985, shall not be eligible for additional funds under this authorization.

''(q) The Secretary, in cooperation with State highway departments and local officials, shall conduct a full and complete investigation and study of the problem of providing increased highway safety by the relocation of railroad lines from the central area of cities on a nationwide basis, and report to the Congress his recommendations resulting from such investigation and study not later than July 1, 1975, including an estimate of the cost of such a program. Funds authorized to carry out section 307 of title 23, United States Code, are authorized to be used to carry out the investigation and study required by this subsection.''

DEMONSTRATION PROJECT, RAILROAD-HIGHWAY CROSSINGS; INCLUSION OF PROJECTS AT TERRE HAUTE, INDIANA

Pub. L. 94–387, title I, § 101, Aug. 14, 1976, 90 Stat. 1176, provided in part: ''That section 163 of Public Law 93–87 [set out as a note above] is hereby amended to include projects at Terre Haute, Indiana.''

RAILROAD-HIGHWAY CROSSINGS

Pub. L. 93–87, title II, § 203, Aug. 13, 1973, 87 Stat. 283, as amended by Pub. L. 94–280, title II, § 203, May 5, 1976, 90 Stat. 452; Pub. L. 95–599, title II, § 203, Nov. 6, 1978, 92 Stat. 2728; Pub. L. 96–470, title II, § 209(d), Oct. 19, 1980, 94 Stat. 2245; Pub. L. 97–327, § 5(b), Oct. 15, 1982, 96 Stat. 1612; Pub. L. 97–424, title II, § 205, Jan. 6, 1983, 96 Stat. 2139, which directed each State to conduct a survey of all highways to identify those railway crossings requiring separation, relocation, or protective devices and to establish and implement a schedule of projects for such purpose, which at a minimum was to provide for signs at all crossings, authorized appropriations for elimination of hazards of railway-highway crossings, provided for State apportionments and for the Federal share of the costs of projects, required each State to annually report to the Secretary of Transportation and the Secretary of Transportation to annually report to Congress on progress in implementing railroad-highway crossings program, and authorized use of matching funds with local governments for improvement of railroad crossings, was repealed by Pub. L. 100–17, title I, § 121(b), Apr. 2, 1987, 101 Stat. 160.

Highway authorizations provisions of section 104(a)(1) and (2) of Pub. L. 93–87, referred to in section 203(d) of Pub. L. 93–87 provided that:

''(a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated:

''(1) For the Federal-aid primary system in rural areas, out of the Highway Trust Fund, $680,000,000 for the fiscal year ending June 30, 1974, $700,000,000 for the fiscal year ending June 30, 1975, and $700,000,000 for the fiscal year ending June 30, 1976. For the Federal-aid secondary system in rural areas, out of Highway Trust Fund, $390,000,000 for the fiscal year ending June 30, 1974, $400,000,000 for the fiscal year ending June 30, 1975, and $400,000,000 for the fiscal year ending June 30, 1976.

''(2) For the Federal-aid urban system, out of the Highway Trust Fund, $780,000,000 for the fiscal year

ending June 30, 1974, $800,000,000 for the fiscal year ending June 30, 1975, and $800,000,000 for the fiscal year ending June 30, 1976. For the extensions of the Federal-aid primary and secondary systems in urban areas, out of the Highway Trust Fund $290,000,000 for the fiscal year ending June 30, 1974, $300,000,000 for the fiscal year ending June 30, 1975, and $300,000,000 for the fiscal year ending June 30, 1976.''

§ 131. Control of outdoor advertising

(a) The Congress hereby finds and declares that the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty.

(b) Federal-aid highway funds apportioned on or after January 1, 1968, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of outdoor advertising signs, displays, and devices which are within six hundred and sixty feet of the nearest edge of the right-of-way and visible from the main traveled way of the system, and Federal-aid highway funds apportioned on or after January 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of those additional outdoor advertising signs, displays, and devices which are more than six hundred and sixty feet off the nearest edge of the right-of-way, located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way, shall be reduced by amounts equal to 10 per centum of the amounts which would otherwise be apportioned to such State under section 104 of this title, until such time as such State shall provide for such effective control. Any amount which is withheld from apportionment to any State hereunder shall be reapportioned to the other States. Whenever he determines it to be in the public interest, the Secretary may suspend, for such periods as he deems necessary, the application of this subsection to a State.

(c) Effective control means that such signs, displays, or devices after January 1, 1968, if located within six hundred and sixty feet of the right-of-way and, on or after July 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, if located beyond six hundred and sixty feet of the right-of-way located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way, shall, pursuant to this section, be limited to (1) directional and official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, which shall conform to national standards hereby authorized to be promulgated by the Secretary hereunder, which standards shall contain provisions concerning lighting, size, number, and spacing of signs, and such other requirements as may be appropriate to implement this section, (2) signs, displays, and devices advertising the sale or lease of property upon which they are located, (3) signs, displays, and devices, including those which may be changed at reasonable intervals by electronic process or by remote control, advertising activities conducted on the property on which they are located, (4) signs lawfully in existence on October 22, 1965, determined by the State, subject to the approval of the Secretary, to be landmark signs, including signs on farm structures or natural surfaces, or historic or artistic significance the preservation of which would be consistent with the purposes of this section, and (5) signs, displays, and devices advertising the distribution by nonprofit organizations of free coffee to individuals traveling on the Interstate System or the primary system. For the purposes of this subsection, the term ''free coffee'' shall include coffee for which a donation may be made, but is not required.

(d) In order to promote the reasonable, orderly and effective display of outdoor advertising while remaining consistent with the purposes of this section, signs, displays, and devices whose size, lighting and spacing, consistent with customary use is to be determined by agreement between the several States and the Secretary, may be erected and maintained within six hundred and sixty feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and primary systems which are zoned industrial or commercial under authority of State law, or in unzoned commercial or industrial areas as may be determined by agreement between the several States and the Secretary. The States shall have full authority under their own zoning laws to zone areas for commercial or industrial purposes, and the actions of the States in this regard will be accepted for the purposes of this Act. Whenever a bona fide State, county, or local zoning authority has made a determination of customary use, such determination will be accepted in lieu of controls by agreement in the zoned commercial and industrial areas within the geographical jurisdiction of such authority. Nothing in this subsection shall apply to signs, displays, and devices referred to in clauses (2) and (3) of subsection (c) of this section.

(e) Any sign, display, or device lawfully in existence along the Interstate System or the Federal-aid primary system on September 1, 1965, which does not conform to this section shall not be required to be removed until July 1, 1970. Any other sign, display, or device lawfully erected which does not conform to this section shall not be required to be removed until the end of the fifth year after it becomes nonconforming.

(f) The Secretary shall, in consultation with the States, provide within the rights-of-way for areas at appropriate distances from interchanges on the Interstate System, on which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained. The Secretary may also, in consultation with the States, provide within the rights-of-way of the primary system for areas in which signs, displays, and

devices giving specific information in the interest of the traveling public may be erected and maintained. Such signs shall conform to national standards to be promulgated by the Secretary.

(g) Just compensation shall be paid upon the removal of any outdoor advertising sign, display, or device lawfully erected under State law and not permitted under subsection (c) of this section, whether or not removed pursuant to or because of this section. The Federal share of such compensation shall be 75 per centum. Such compensation shall be paid for the following:

(A) The taking from the owner of such sign, display, or device of all right, title, leasehold, and interest in such sign, display, or device; and

(B) The taking from the owner of the real property on which the sign, display, or device is located, of the right to erect and maintain such signs, displays, and devices thereon.

(h) All public lands or reservations of the United States which are adjacent to any portion of the Interstate System and the primary system shall be controlled in accordance with the provisions of this section and the national standards promulgated by the Secretary.

(i) In order to provide information in the specific interest of the traveling public, the State transportation departments are authorized to maintain maps and to permit information directories and advertising pamphlets to be made available at safety rest areas. Subject to the approval of the Secretary, a State may also establish information centers at safety rest areas and other travel information systems within the rights-of-way for the purpose of informing the public of places of interest within the State and providing such other information as a State may consider desirable. The Federal share of the cost of establishing such an information center or travel information system shall be that which is provided in section 120 for a highway project on that Federal-aid system to be served by such center or system.

(j) Any State transportation department which has, under this section as in effect on June 30, 1965, entered into an agreement with the Secretary to control the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System shall be entitled to receive the bonus payments as set forth in the agreement, but no such State transportation department shall be entitled to such payments unless the State maintains the control required under such agreement: *Provided*, That permission by a State to erect and maintain information displays which may be changed at reasonable intervals by electronic process or remote control and which provide public service information or advertise activities conducted on the property on which they are located shall not be considered a breach of such agreement or the control required thereunder. Such payments shall be paid only from appropriations made to carry out this section. The provisions of this subsection shall not be construed to exempt any State from controlling outdoor advertising as otherwise provided in this section.

(k) Subject to compliance with subsection (g) of this section for the payment of just compensation, nothing in this section shall prohibit a State from establishing standards imposing stricter limitations with respect to signs, displays, and devices on the Federal-aid highway systems than those established under this section.

(*l*) Not less than sixty days before making a final determination to withhold funds from a State under subsection (b) of this section, or to do so under subsection (b) of section 136, or with respect to failing to agree as to the size, lighting, and spacing of signs, displays, and devices or as to unzoned commercial or industrial areas in which signs, displays, and devices may be erected and maintained under subsection (d) of this section, or with respect to failure to approve under subsection (g) of section 136, the Secretary shall give written notice to the State of his proposed determination and a statement of the reasons therefor, and during such period shall give the State an opportunity for a hearing on such determination. Following such hearing the Secretary shall issue a written order setting forth his final determination and shall furnish a copy of such order to the State. Within forty-five days of receipt of such order, the State may appeal such order to any United States district court for such State, and upon the filing of such appeal such order shall be stayed until final judgment has been entered on such appeal. Summons may be served at any place in the United States. The court shall have jurisdiction to affirm the determination of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the United States court of appeals for the circuit in which the State is located and to the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254. If any part of an apportionment to a State is withheld by the Secretary under subsection (b) of this section or subsection (b) of section 136, the amount so withheld shall not be reapportioned to the other States as long as a suit brought by such State under this subsection is pending. Such amount shall remain available for apportionment in accordance with the final judgment and this subsection. Funds withheld from apportionment and subsequently apportioned or reapportioned under this section shall be available for expenditure for three full fiscal years after the date of such apportionment or reapportionment as the case may be.

(m) There is authorized to be appropriated to carry out the provisions of this section, out of any money in the Treasury not otherwise appropriated, not to exceed $20,000,000 for the fiscal year ending June 30, 1966, not to exceed $20,000,000 for the fiscal year ending June 30, 1967, not to exceed $2,000,000 for the fiscal year ending June 30, 1970, not to exceed $27,000,000 for the fiscal year ending June 30, 1971, not to exceed $20,500,000 for the fiscal year ending June 30, 1972, and not to exceed $50,000,000 for the fiscal year ending June 30, 1973. The provisions of this chapter relating to the obligation, period of availability and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967. Subject to approval by

the Secretary in accordance with the program of projects approval process of section 105,[1] a State may use any funds apportioned to it under section 104 of this title for removal of any sign, display, or device lawfully erected which does not conform to this section.

(n) No sign, display, or device shall be required to be removed under this section if the Federal share of the just compensation to be paid upon removal of such sign, display, or device is not available to make such payment. Funds apportioned to a State under section 104 of this title shall not be treated for purposes of the preceding sentence as being available to the State for making such a payment except to the extent that the State, in its discretion, expends such funds for such a payment.

(*o*) The Secretary may approve the request of a State to permit retention in specific areas defined by such State of directional signs, displays, and devices lawfully erected under State law in force at the time of their erection which do not conform to the requirements of subsection (c), where such signs, displays, and devices are in existence on the date of enactment of this subsection and where the State demonstrates that such signs, displays, and devices (1) provide directional information about goods and services in the interest of the traveling public, and (2) are such that removal would work a substantial economic hardship in such defined area.

(p) In the case of any sign, display, or device required to be removed under this section prior to the date of enactment of the Federal-Aid Highway Act of 1974, which sign, display, or device was after its removal lawfully relocated and which as a result of the amendments made to this section by such Act is required to be removed, the United States shall pay 100 per centum of the just compensation for such removal (including all relocation costs).

(q)(1) During the implementation of State laws enacted to comply with this section, the Secretary shall encourage and assist the States to develop sign controls and programs which will assure that necessary directional information about facilities providing goods and services in the interest of the traveling public will continue to be available to motorists. To this end the Secretary shall restudy and revise as appropriate existing standards for directional signs authorized under subsections 131(c)(1) and 131(f) to develop signs which are functional and esthetically compatible with their surroundings. He shall employ the resources of other Federal departments and agencies, including the National Endowment for the Arts, and employ maximum participation of private industry in the development of standards and systems of signs developed for those purposes.

(2) Among other things the Secretary shall encourage States to adopt programs to assure that removal of signs providing necessary directional information, which also were providing directional information on June 1, 1972, about facilities in the interest of the traveling public, be deferred until all other nonconforming signs are removed.

[1] See References in Text note below.

(r) REMOVAL OF ILLEGAL SIGNS.—

(1) BY OWNERS.—Any sign, display, or device along the Interstate System or the Federal-aid primary system which was not lawfully erected, shall be removed by the owner of such sign, display, or device not later than the 90th day following the effective date of this subsection.

(2) BY STATES.—If any owner does not remove a sign, display, or device in accordance with paragraph (1), the State within the borders of which the sign, display, or device is located shall remove the sign, display, or device. The owner of the removed sign, display, or device shall be liable to the State for the costs of such removal. Effective control under this section includes compliance with the first sentence of this paragraph.

(s) SCENIC BYWAY PROHIBITION.—If a State has a scenic byway program, the State may not allow the erection along any highway on the Interstate System or Federal-aid primary system which before, on, or after the effective date of this subsection, is designated as a scenic byway under such program of any sign, display, or device which is not in conformance with subsection (c) of this section. Control of any sign, display, or device on such a highway shall be in accordance with this section. In designating a scenic byway for purposes of this section and section 1047 of the Intermodal Surface Transportation Efficiency Act of 1991, a State may exclude from such designation any segment of a highway that is inconsistent with the State's criteria for designating State scenic byways. Nothing in the preceding sentence shall preclude a State from signing any such excluded segment, including such segment on a map, or carrying out similar activities, solely for purposes of system continuity.

(t) PRIMARY SYSTEM DEFINED.—For purposes of this section, the terms ''primary system'' and ''Federal-aid primary system'' mean the Federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the National Highway System.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 904; Pub. L. 86–342, title I, §106, Sept. 21, 1959, 73 Stat. 612; Pub. L. 87–61, title I, §106, June 29, 1961, 75 Stat. 123; Pub. L. 88–157, §5, Oct. 24, 1963, 77 Stat. 277; Pub. L. 89–285, title I, §101, Oct. 22, 1965, 79 Stat. 1028; Pub. L. 89–574, §8(a), Sept. 13, 1966, 80 Stat. 768; Pub. L. 90–495, §6(a)–(d), Aug. 23, 1968, 82 Stat. 817; Pub. L. 91–605, title I, §122(a), Dec. 31, 1970, 84 Stat. 1726; Pub. L. 93–643, §109, Jan. 4, 1975, 88 Stat. 2284; Pub. L. 94–280, title I, §122, May 5, 1976, 90 Stat. 438; Pub. L. 95–599, title I, §§121, 122, Nov. 6, 1978, 92 Stat. 2700, 2701; Pub. L. 96–106, §6, Nov. 9, 1979, 93 Stat. 797; Pub. L. 102–240, title I, §1046(a)–(c), Dec. 18, 1991, 105 Stat. 1995, 1996; Pub. L. 102–302, §104, June 22, 1992, 106 Stat. 253; Pub. L. 104–59, title III, §314, Nov. 28, 1995, 109 Stat. 586; Pub. L. 105–178, title I, §1212(a)(2)(A), June 9, 1998, 112 Stat. 193.)

REFERENCES IN TEXT

This Act, referred to in subsec. (d), probably means Pub. L. 89–285, Oct. 22, 1965, 79 Stat. 1028, as amended, known as the Highway Beautification Act of 1965, which enacted section 136 of this title and provisions set out as notes under sections 131 and 135 of this title

and amended sections 131 and 319 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 136 of this title and Tables.

Section 105, referred to in subsec. (m), was amended generally by Pub. L. 105–178, title I, §1104(a), June 9, 1998, 112 Stat. 127, and by Pub. L. 109–59, title I, §1104(a), Aug. 10, 2005, 119 Stat. 1163, and, as so amended, no longer refers to program of highway project approval process by Secretary.

The date of enactment of this subsection, referred to in subsec. (*o*), means May 5, 1976, the date of approval of Pub. L. 94–280.

The date of enactment of the Federal-Aid Highway Act of 1974, referred to in subsec. (p), means Jan. 3, 1975, the date of approval of Pub. L. 93–643.

For the effective date of this subsection, referred to in subsecs. (r)(1) and (s), see the Effective Date of 1991 Amendment note set out below.

Section 1047 of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (s), is section 1047 of Pub. L. 102–240, which is set out as a note under section 101 of this title.

AMENDMENTS

1998—Subsec. (i). Pub. L. 105–178, §1212(a)(2)(A)(ii), substituted ''State transportation departments'' for ''State highway departments''.

Subsec. (j). Pub. L. 105–178, §1212(a)(2)(A)(i), substituted ''State transportation department'' for ''State highway department'' in two places.

1995—Subsec. (s). Pub. L. 104–59 inserted at end ''In designating a scenic byway for purposes of this section and section 1047 of the Intermodal Surface Transportation Efficiency Act of 1991, a State may exclude from such designation any segment of a highway that is inconsistent with the State's criteria for designating State scenic byways. Nothing in the preceding sentence shall preclude a State from signing any such excluded segment, including such segment on a map, or carrying out similar activities, solely for purposes of system continuity.''

1992—Subsec. (n). Pub. L. 102–302 inserted at end ''Funds apportioned to a State under section 104 of this title shall not be treated for purposes of the preceding sentence as being available to the State for making such a payment except to the extent that the State, in its discretion, expends such funds for such a payment.''

1991—Subsec. (m). Pub. L. 102–240, §1046(a), inserted at end ''Subject to approval by the Secretary in accordance with the program of projects approval process of section 105, a State may use any funds apportioned to it under section 104 of this title for removal of any sign, display, or device lawfully erected which does not conform to this section.''

Subsecs. (r) to (t). Pub. L. 102–240, §1046(b), (c), added subsecs. (r) to (t).

1979—Subsec. (c)(5). Pub. L. 96–106 substituted ''distribution by nonprofit'' for ''distribution of nonprofit''.

1978—Subsec. (c). Pub. L. 95–599 §§121, 122(c), inserted ''including those which may be changed at reasonable intervals by electronic process or by remote control,'' after ''devices'' in cl. (3) and added cl. (5).

Subsec. (g). Pub. L. 95–599, §122(a), inserted provision relating to just compensation for the removal of signs lawfully erected under State law but not permitted under subsec. (c).

Subsec. (j). Pub. L. 95–599, §122(d), inserted provision relating to permission by the State to erect and maintain information displays.

Subsec. (k). Pub. L. 95–599, §122(b), substituted ''Subject to compliance with subsection (g) of this section for the payment of just compensation, nothing'' for ''Nothing''.

1976—Subsec. (f). Pub. L. 94–280, §122(a), authorized the Secretary, in consultation with the States, to provide within the rights-of-way of the primary system for areas in which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained.

Subsec. (i). Pub. L. 94–280, §122(c), authorized a State to establish travel information systems within the rights-of-way and prescribed as the Federal share of the cost of establishing an information center or travel information system the Federal share which is provided in section 120 of this title for a highway project on that Federal-aid system to be served by such center or system.

Subsecs. (*o*) to (q). Pub. L. 94–280, §122(b), added subsecs. (*o*) to (q).

1975—Subsec. (b). Pub. L. 93–643, §109(a), required reduction of Federal-aid highway funds apportioned on or after Jan. 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of those additional outdoor advertising signs, displays, and devices which are more than 660 feet off the nearest edge of the right-of-way, located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way.

Subsec. (c). Pub. L. 93–643, §109(b), substituted ''Effective control means that such signs, displays, or devices after January 1, 1968, if located within six hundred and sixty feet of the right-of-way and, on or after July 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, if located beyond six hundred and sixty feet of the right-of-way, located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way,'' for ''Effective control means that after January 1, 1968, such signs, displays, and devices'', deleted in cl. (1) ''other'' before ''official signs'', and added cl. (4).

Subsec. (g). Pub. L. 93–643, §109(c), substituted first sentence reading ''Just compensation shall be paid upon the removal of any outdoor advertising sign, display, or device lawfully erected under State law.'' for prior first sentence which provided for payment of just compensation for removal of outdoor advertising signs, displays, and devices (1) lawfully in existence on Oct. 22, 1965, (2) lawfully on any highway made a part of the interstate or primary system on or after Oct. 22, 1965, and before Jan. 1, 1968, and (3) lawfully erected on or after Jan. 1, 1968.

1970—Subsec. (m). Pub. L. 91–605 authorized to be appropriated not to exceed $27,000,000, $20,500,000 and $50,000,000, for the fiscal years ending June 30, 1971, 1972, and 1973, respectively.

1968—Subsec. (d). Pub. L. 90–495, §6(a), provided that whenever a bona fide State, county, or local zoning authority has made a determination of customary use, such determination will be accepted in lieu of controls by agreement in the zoned commercial and industrial areas within the geographical jurisdiction of such authority.

Subsec. (j). Pub. L. 90–495, §6(b), struck out provision for the imposition of controls on outdoor advertising by the Federal government that are stricter than those imposed by the State highway department.

Subsec. (m). Pub. L. 90–495, §6(c), inserted provision authorizing an appropriation of not to exceed $2,000,000 for the fiscal year ending June 30, 1970.

Subsec. (n). Pub. L. 90–495, §6(d), added subsec. (n).

1966—Subsec. (m). Pub. L. 89–574 substituted provisions making applicable to the funds authorized to be appropriated to carry out this section after June 30, 1967 the provisions of chapter 1 of this title relating to the obligation, period of availability and expenditure of Federal-aid primary highway funds for provisions prohibiting the use of any part of the Highway Trust Fund in carrying out this section.

1965—Subsec. (a). Pub. L. 89–285 struck out specific reference to the area which lies within six-hundred and sixty feet of the edge of the right-of-way and which is visible from the right-of-way and instead made only general reference to the areas adjacent to the Inter-

state System and struck out reference to types of permissible signs.

Subsec. (b). Pub. L. 89–285 substituted provisions reducing by 10 per centum the apportioned share, on or after January 1, 1968, of any State not making provision for effective control of erection and maintenance of outdoor advertising signs, displays and devices within six-hundred and sixty feet of the nearest edge of the right of way and visible from the traveled portion, reapportioning withheld funds to other States, and allowing for suspension of such provisions in the discretion of the Secretary, for provisions which authorized the Secretary to enter into agreements with the States to carry out national policy on control of areas adjacent to the Interstate System.

Subsec. (c). Pub. L. 89–285 substituted provisions setting out permissible types of signs as directional and other official signs and notices, signs advertising sale or lease of property on which the sign is located, and signs, displays, and devices advertising activities conducted on the property on which the sign is located, for provisions allowing for an increase in the Federal share payable under the Federal-Aid Highway Act of 1956, as amended, in the case of States entering into an agreement with the Secretary prior to July 1, 1965.

Subsec. (d). Pub. L. 89–285 substituted provisions allowing for agreements between the Secretary and the several States covering commercial or industrial property, for provisions covering control of the adjacent area when the Interstate System is located on or near public lands or reservations of the United States.

Subsec. (e). Pub. L. 89–285 substituted provisions setting out the timetable for removal of signs, displays, and devices lawfully along Interstate System or Federal-aid primary system highways, for provisions allowing the inclusion of the cost of purchase or condemnation of the right to advertise or control advertising in the area adjacent to Interstate System right-of-way as part of the cost of construction.

Subsecs. (f) to (m). Pub. L. 89–285 added subsecs. (f) to (m).

1963—Subsec. (c). Pub. L. 88–157 substituted ''July 1, 1965'' for ''July 1, 1963''.

1961—Subsec. (c). Pub. L. 87–61 substituted ''July 1, 1963'' for ''July 1, 1961''.

1959—Subsec. (b). Pub. L. 86–342 substituted ''Agreements entered into between the Secretary of Commerce and State highway departments under this section shall not apply to those segments of the Interstate System which traverse commercial or industrial zones within the presently existing boundaries of incorporated municipalities wherein the use of real property adjacent to the Interstate System is subject to municipal regulation or control, or which traverse other areas where the land use, as of the date of approval of this Act, is clearly established by State law as industrial or commercial'' for ''Upon application of the State, any such agreement may, within the discretion of the Secretary of Commerce consistent with the national policy, provide for excluding from application of the national standards segments of the Interstate System which traverse incorporated municipalities wherein the use of real property adjacent to the Interstate System is subject to municipal regulation or control, or which traverse other areas where the land use is clearly established by State law as industrial or commercial.''

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–495 effective Aug. 23, 1968, see section 37 of Pub. L. 90–495, set out as a note under section 101 of this title.

STUDY OF STATE PRACTICES ON SPECIFIC SERVICE SIGNING

Pub. L. 105–178, title I, §1213(g), June 9, 1998, 112 Stat. 202, provided that:

''(1) STUDY.—The Secretary shall conduct a study to determine the practices in the States for specific service food signs described in sections 2G–5.7 and 2G–5.8 of the Manual on Uniform Traffic Control Devices for Streets and Highways. The study shall examine, at a minimum—

''(A) the practices of all States for determining businesses eligible for inclusion on such signs;

''(B) whether States allow businesses to be removed from such signs and the circumstances for such removal;

''(C) the practices of all States for erecting and maintaining such signs, including the time required for erecting such signs; and

''(D) whether States contract out the erection and maintenance of such signs.

''(2) REPORT.—Not later than 1 year after the date of enactment of this Act [June 9, 1998], the Secretary shall transmit to Congress a report on the results of the study, including any recommendations and, if appropriate, modifications to the Manual.''

EFFECT OF 1991 AMENDMENT ON STATE COMPLIANCE LAWS OR REGULATIONS

Section 1046(d) of Pub. L. 102–240 provided that: ''The amendments made by this section [amending this section] shall not affect the status or validity of any existing compliance law or regulation adopted by a State pursuant to section 131 of title 23, United States Code.''

USE OF TOURIST ORIENTED DIRECTIONAL SIGNS

Section 1059 of Pub. L. 102–240 provided that:

''(a) IN GENERAL.—The Secretary shall encourage the States to provide for equitable participation in the use of tourist oriented directional signs or 'logo' signs along the Interstate System and the Federal-aid primary system (as defined under section 131(t) of title 23, United States Code).

''(b) STUDY.—Not later than 1 year after the effective date of this title [Dec. 18, 1991], the Secretary shall conduct a study and report to Congress on the participation in the use of signs referred to in subsection (a) and the practices of the States with respect to the use of such signs.''

HIGHWAY BEAUTIFICATION COMMISSION

Section 123 of Pub. L. 91–605, as amended by Pub. L. 93–6, Feb. 16, 1973, 87 Stat. 6, established the Commission on Highway Beautification to (1) study existing statutes and regulations governing control of outdoor advertising and junkyards in areas adjacent to Federal-aid highway system, (2) review policies and practices of Federal and State agencies charged with administrative jurisdiction over such highways insofar as such policies and practices relate to governing control of outdoor advertising and junkyards, (3) compile data necessary to understand and determine the requirements for such control which may now exist or are likely to exist within foreseeable future, (4) study problems relating to control of on-premise outdoor advertising signs, promotional signs, directional signs, and signs providing information that is essential to motoring public, (5) study methods of financing and possible sources of Federal funds, including use of the Highway Trust Fund, to carry out highway beautification program, and (6) recommend such modifications or additions to existing laws, regulations, policies, practices, and demonstration programs as will, in judgment of the Commission, achieve a workable and effective highway beautification program and best serve the public interest and to submit, not later than Dec. 31, 1973, its final report. The Commission terminated six months after submission of said report.

COMPREHENSIVE STUDY ON HIGHWAY BEAUTIFICATION PROGRAMS

Section 302 of Pub. L. 89–285 provided that in order to provide the basis for evaluating the continuing programs authorized by Pub. L. 89–285, and to furnish the Congress with the information necessary for authorization of appropriations for fiscal years beginning after June 30, 1967, the Secretary, in cooperation with the State highway departments, shall make a detailed estimate of the cost of carrying out the provisions of Pub. L. 89–285, and a comprehensive study of the economic impact of such programs on affected individuals and commercial and industrial enterprises, the effectiveness of such programs and the public and private benefits realized thereby, and alternate or improved methods of accomplishing the objectives of Pub. L. 89–285. The Secretary was required to submit such detailed estimate and a report concerning such comprehensive study to the Congress not later than Jan. 10, 1967.

STANDARDS, CRITERIA, RULES AND REGULATIONS

Section 303 of Pub. L. 89–285 mandated the holding of public hearings by the Secretary of Commerce prior to the promulgation of standards, criteria and rules and regulations necessary to carry out this section and section 136 of this title, such standards, criteria, etc., to be reported to Congress not later than Jan. 10, 1967.

ACQUISITION OF DWELLINGS

Section 305 of Pub. L. 89–285 provided that: ''Nothing in this Act or the amendments made by this Act [amending this section and section 319 of this title and enacting section 136 of this title and provisions set out as notes under this section and sections 135 and 136 of this title] shall be construed to authorize the use of eminent domain to acquire any dwelling (including related buildings).''

TAKING OF PRIVATE PROPERTY WITHOUT JUST COMPENSATION

Section 401 of Pub. L. 89–285 provided that: ''Nothing in this Act or the amendments made by this Act [amending this section and section 319 of this title and enacting section 136 of this title and provisions set out as notes under sections 131, 135, and 136 of this title] shall be construed to authorize private property to be taken or the reasonable and existing use restricted by such taking without just compensation as provided in this Act.''

AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR ADMINISTRATIVE EXPENSES

Section 402 of Pub. L. 89–285, as amended by Pub. L. 97–449, § 2(a), Jan. 12, 1983, 96 Stat. 2439, provided that: ''In addition to any other amounts authorized by this Act and the amendments made by this Act [amending this section and section 319 of this title and enacting section 136 of this title and provisions set out as notes under this section and sections 135 and 136 of this title], there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Secretary not to exceed $5,000,000 for administrative expenses in carrying out this Act (including amendments made by this Act).''

§ 132. Payments on Federal-aid projects undertaken by a Federal agency

(a) IN GENERAL.—In a case in which a proposed Federal-aid project is to be undertaken by a Federal agency in accordance with an agreement between a State and the Federal agency, the State may—

(1) direct the Secretary to transfer the funds for the Federal share of the project directly to the Federal agency; or

(2) make such deposit with, or payment to, the Federal agency as is required to meet the obligation of the State under the agreement for the work undertaken or to be undertaken by the Federal agency.

(b) REIMBURSEMENT.—On execution with a State of a project agreement described in subsection (a), the Secretary may reimburse the State, using any available funds, for the estimated Federal share under this title of the obligation of the State deposited or paid under subsection (a)(2).

(c) RECOVERY AND CREDITING OF FUNDS.—Any sums reimbursed to the State under this section which may be in excess of the Federal pro rata share under the provisions of this title of the State's share of the cost as set forth in the approved final voucher submitted by the State shall be recovered and credited to the same class of funds from which the Federal payment under this section was made.

(Added Pub. L. 86–657, § 4(a), July 14, 1960, 74 Stat. 522; amended Pub. L. 109–59, title I, § 1119(b), Aug. 10, 2005, 119 Stat. 1182.)

AMENDMENTS

2005—Pub. L. 109–59 designated third sentence as subsec. (c), inserted heading, and substituted subsecs. (a) and (b) for first and second sentences which read as follows: ''Where a proposed Federal-aid project is to be undertaken by a Federal agency pursuant to an agreement between a State and such Federal agency and the State makes a deposit with or payment to such Federal agency as may be required in fulfillment of the State's obligation under such agreement for the work undertaken or to be undertaken by such Federal agency, the Secretary, upon execution of a project agreement with such State for the proposed Federal-aid project, may reimburse the State out of the appropriate appropriations the estimated Federal share under the provisions of this title of the State's obligation so deposited or paid by such State. Upon completion of such project and its acceptance by the Secretary, an adjustment shall be made in such Federal share payable on account of such project based on the final cost thereof.''

§ 133. Surface transportation program

(a) ESTABLISHMENT.—The Secretary shall establish a surface transportation program in accordance with this section.

(b) ELIGIBLE PROJECTS.—A State may obligate funds apportioned to it under section 104(b)(3) for the surface transportation program only for the following:

(1) Construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for highways (including Interstate highways) and bridges (including bridges on public roads of all functional classifications), including any such construction or reconstruction necessary to accommodate other transportation modes, and including the seismic retrofit and painting of and application of calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions on bridges and approaches thereto and other elevated structures, mitigation of damage to wildlife, habitat, and ecosystems caused by a transportation project funded under this title.

(2) Capital costs for transit projects eligible for assistance under chapter 53 of title 49, including vehicles and facilities, whether pub-

licly or privately owned, that are used to provide intercity passenger service by bus.

(3) Carpool projects, fringe and corridor parking facilities and programs, bicycle transportation and pedestrian walkways in accordance with section 217, and the modification of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(4) Highway and transit safety infrastructure improvements and programs, hazard eliminations, projects to mitigate hazards caused by wildlife, and railway-highway grade crossings.

(5) Highway and transit research and development and technology transfer programs.

(6) Capital and operating costs for traffic monitoring, management, and control facilities and programs, including advanced truck stop electrification systems.

(7) Surface transportation planning programs.

(8) Transportation enhancement activities.

(9) Transportation control measures listed in section 108(f)(1)(A) (other than clause (xvi)) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A)).

(10) Development and establishment of management systems under section 303.

(11) In accordance with all applicable Federal law and regulations, participation in natural habitat and wetlands mitigation efforts related to projects funded under this title, which may include participation in natural habitat and wetlands mitigation banks; contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetlands; and development of statewide and regional natural habitat and wetlands conservation and mitigation plans, including any such banks, efforts, and plans authorized pursuant to the Water Resources Development Act of 1990 (including crediting provisions). Contributions to such mitigation efforts may take place concurrent with or in advance of project construction. Contributions toward these efforts may occur in advance of project construction only if such efforts are consistent with all applicable requirements of Federal law and regulations and State transportation planning processes. With respect to participation in a natural habitat or wetland mitigation effort related to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference shall be given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605 (November 28, 1995)) or other applicable Federal law (including regulations).

(12) Projects relating to intersections that—

(A) have disproportionately high accident rates;

(B) have high levels of congestion, as evidenced by—

(i) interrupted traffic flow at the intersection; and

(ii) a level of service rating that is not better than ''F'' during peak travel hours, calculated in accordance with the Highway Capacity Manual issued by the Transportation Research Board; and

(C) are located on a Federal-aid highway.

(13) Infrastructure-based intelligent transportation systems capital improvements.

(14) Environmental restoration and pollution abatement in accordance with section 328.

(15) Control of noxious weeds and aquatic noxious weeds and establishment of native species in accordance with section 329.

(c) LOCATION OF PROJECTS.—Except as provided in subsection (b)(1), surface transportation program projects (other than those described in subsections (b)(3) and (4)) may not be undertaken on roads functionally classified as local or rural minor collectors, unless such roads are on a Federal-aid highway system on January 1, 1991, and except as approved by the Secretary.

(d) ALLOCATIONS OF APPORTIONED FUNDS.—

[(1) Repealed. Pub. L. 109–59, title I, § 1113(b)(1), Aug. 10, 2005, 119 Stat. 1172.]

(2) FOR TRANSPORTATION ENHANCEMENT ACTIVITIES.—In a fiscal year, the greater of 10 percent of the funds apportioned to a State under section 104(b)(3) for such fiscal year, or the amount set aside under this paragraph with respect to the State for fiscal year 2005, shall only be available for transportation enhancement activities.

(3) DIVISION BETWEEN URBANIZED AREAS OF OVER 200,000 POPULATION AND OTHER AREAS.—

(A) GENERAL RULE.—Except as provided in subparagraph (C), 62.5 percent of the remaining 90 percent of the funds apportioned to a State under section 104(b)(3) for a fiscal year shall be obligated under this section—

(i) in urbanized areas of the State with an urbanized area population of over 200,000, and

(ii) in other areas of the State,

in proportion to their relative share of the State's population. The remaining 37.5 percent may be obligated in any area of the State. Funds attributed to an urbanized area under clause (i) may be obligated in the metropolitan area established under section 134 which encompasses the urbanized area.

(B) SPECIAL RULE FOR AREAS OF LESS THAN 5,000 POPULATION.—Of the amounts required to be obligated under subparagraph (A)(ii), the State shall obligate in areas of the State (other than urban areas with a population greater than 5,000) an amount which is not less than 110 percent of the amount of funds apportioned to the State for the Federal-aid secondary system for fiscal year 1991.

(C) NONCONTIGUOUS STATES EXEMPTION.—Subparagraph (A) shall not apply to Hawaii and Alaska.

(D) DISTRIBUTION BETWEEN URBANIZED AREAS OF OVER 200,000 POPULATION.—The amount of funds which a State is required to obligate under subparagraph (A)(i) shall be obligated in urbanized areas described in subparagraph (A)(i) based on the relative population of such areas; except that the State may obligate such funds based on other factors if the State and the relevant

metropolitan planning organizations jointly apply to the Secretary for the permission to do so and the Secretary grants the request.

(4) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with the requirements of sections 134 and 135 of this title.

(5) APPLICABILITY OF CERTAIN REQUIREMENTS TO THIRD PARTY SELLERS.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), in the case of a transportation enhancement activity funded from the allocation required under paragraph (2), if real property or an interest in real property is to be acquired from a qualified organization exclusively for conservation purposes (as determined under section 170(h) of the Internal Revenue Code of 1986), the organization shall be considered to be the owner of the property for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(B) FEDERAL APPROVAL PRIOR TO INVOLVEMENT OF QUALIFIED ORGANIZATION.—If Federal approval of the acquisition of the real property or interest predates the involvement of a qualified organization described in subparagraph (A) in the acquisition of the property, the organization shall be considered to be an acquiring agency or person as described in section 24.101(a)(2) of title 49, Code of Federal Regulations, for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(C) ACQUISITIONS ON BEHALF OF RECIPIENTS OF FEDERAL FUNDS.—If a qualified organization described in subparagraph (A) has contracted with a State transportation department or other recipient of Federal funds to acquire the real property or interest on behalf of the recipient, the organization shall be considered to be an agent of the recipient for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(e) ADMINISTRATION.—

(1) NONCOMPLIANCE.—If the Secretary determines that a State or local government has failed to comply substantially with any provision of this section, the Secretary shall notify the State that, if the State fails to take corrective action within 60 days from the date of receipt of the notification, the Secretary will withhold future apportionments under section 104(b)(3) until the Secretary is satisfied that appropriate corrective action has been taken.

(2) PROGRAM APPROVAL.—

(A) SUBMISSION OF PROJECT AGREEMENT.—For each fiscal year, each State shall submit a project agreement that—

(i) certifies that the State will meet all the requirements of this section; and

(ii) notifies the Secretary of the amount of obligations needed to carry out the program under this section.

(B) REQUEST FOR ADJUSTMENTS OF AMOUNTS.—Each State shall request from the Secretary such adjustments to the amount of obligations referred to in subparagraph (A)(ii) as the State determines to be necessary.

(C) EFFECT OF APPROVAL BY THE SECRETARY.—Approval by the Secretary of a project agreement under subparagraph (A) shall be deemed a contractual obligation of the United States to pay surface transportation program funds made available under this title.

(3) PAYMENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall make payments to a State of costs incurred by the State for the surface transportation program in accordance with procedures to be established by the Secretary.

(B) ADVANCE PAYMENT OPTION FOR TRANSPORTATION ENHANCEMENT ACTIVITIES.—

(i) IN GENERAL.—The Secretary may advance funds to the State for transportation enhancement activities funded from the allocation required by subsection (d)(2) for a fiscal year.

(ii) LIMITATION ON AMOUNTS.—Amounts advanced under this subparagraph shall be limited to such amounts as are necessary to make prompt payments for project costs.

(iii) EFFECT ON OTHER REQUIREMENTS.—This subparagraph shall not exempt a State from other requirements of this title relating to the surface transportation program.

(4) POPULATION DETERMINATIONS.—The Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures for purposes of this section.

(5) TRANSPORTATION ENHANCEMENT ACTIVITIES.—

(A) CATEGORICAL EXCLUSIONS.—To the extent appropriate, the Secretary shall develop categorical exclusions from the requirement that an environmental assessment or an environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) be prepared for transportation enhancement activities funded from the allocation required by subsection (d)(2).

(B) NATIONWIDE PROGRAMMATIC AGREEMENT.—The Secretary, in consultation with the National Conference of State Historic Preservation Officers and the Advisory Council on Historic Preservation established under title II of the National Historic Preservation Act (16 U.S.C. 470i et seq.), shall develop a nationwide programmatic agreement governing the review of transportation enhancement activities funded from the allocation required by subsection (d)(2), in accordance with—

(i) section 106 of such Act (16 U.S.C. 470f); and

(ii) the regulations of the Advisory Council on Historic Preservation.

(C) COST SHARING.—

(i) REQUIRED AGGREGATE NON-FEDERAL SHARE.—The average annual non-Federal

share of the total cost of all projects to carry out transportation enhancement activities in a State for a fiscal year shall be not less than the non-Federal share authorized for the State under section 120(b).

(ii) INNOVATIVE FINANCING.—Subject to clause (i), notwithstanding section 120—

(I) funds from other Federal agencies and the value of other contributions (as determined by the Secretary) may be credited toward the non-Federal share of the costs of a project to carry out a transportation enhancement activity;

(II) the non-Federal share for such a project may be calculated on a project, multiple-project, or program basis; and

(III) the Federal share of the cost of an individual project to which subclause (I) or (II) applies may be up to 100 percent.

(f) OBLIGATION AUTHORITY.—

(1) IN GENERAL.—A State that is required to obligate in an urbanized area with an urbanized area population of over 200,000 individuals under subsection (d) funds apportioned to the State under section 104(b)(3) shall make available during the period of fiscal years 2004 through 2006 and the period of fiscal years 2007 through 2009 an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs for use in the area that is equal to the amount obtained by multiplying—

(A) the aggregate amount of funds that the State is required to obligate in the area under subsection (d) during the period; and

(B) the ratio that—

(i) the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs during the period; bears to

(ii) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to an obligation limitation) during the period.

(2) JOINT RESPONSIBILITY.—Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with paragraph (1).

(Added Pub. L. 102–240, title I, §1007(a)(1), Dec. 18, 1991, 105 Stat. 1927; amended Pub. L. 103–429, §3(4), Oct. 31, 1994, 108 Stat. 4377; Pub. L. 104–59, title III, §§315, 316, Nov. 28, 1995, 109 Stat. 586, 587; Pub. L. 105–178, title I, §§1108(a)–(e), 1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 138–140, 193; Pub. L. 109–59, title I, §1113(a)–(b)(2), (c)–(e), title VI, §6006(a)(2), Aug. 10, 2005, 119 Stat. 1171, 1172, 1872.)

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (b)(3), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Water Resources Development Act of 1990, referred to in subsec. (b)(11), is Pub. L. 101–640, Nov. 28, 1990, 104 Stat. 4604. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 2201 of Title 33, Navigation and Navigable Waters, and Tables.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in subsec. (d)(5), is Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, as amended, which is classified generally to chapter 61 (§4601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of Title 42 and Tables.

Section 170(h) of the Internal Revenue Code of 1986, referred to in subsec. (d)(5)(A), is classified to section 170(h) of Title 26, Internal Revenue Code.

The National Historic Preservation Act, referred to in subsec. (e)(5)(B), is Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, as amended. Title II of the Act is classified generally to part B (§470i et seq.) of subchapter II of chapter 1A of Title 16, Conservation. For complete classification of this Act to the Code, see section 470 of Title 16 and Tables.

PRIOR PROVISIONS

A prior section 133, Pub. L. 87–866, §5(a), Oct. 23, 1962, 76 Stat. 1146, provided for relocation assistance for persons displaced by Federal-aid highway construction, prior to repeal by Pub. L. 90–495, §37, Aug. 23, 1968, 82 Stat. 836, effective July 1, 1970. See section 501 et seq. of this title.

AMENDMENTS

2005—Subsec. (b)(6). Pub. L. 109–59, §1113(a)(1), inserted ", including advanced truck stop electrification systems" before period at end.

Subsec. (b)(12). Pub. L. 109–59, §1113(a)(2), added par. (12).

Subsec. (b)(14), (15). Pub. L. 109–59, §6006(a)(2), added pars. (14) and (15) and struck out former par. (14) which read as follows: "Environmental restoration and pollution abatement projects (including the retrofit or construction of storm water treatment systems) to address water pollution or environmental degradation caused or contributed to by transportation facilities, which projects shall be carried out when the transportation facilities are undergoing reconstruction, rehabilitation, resurfacing, or restoration; except that the expenditure of funds under this section for any such environmental restoration or pollution abatement project shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration project."

Subsec. (d)(1). Pub. L. 109–59, §1113(b)(1), struck out heading and text of par. (1). Text read as follows: "10 percent of the funds apportioned to a State under section 104(b)(3) for the surface transportation program for a fiscal year shall only be available for carrying out sections 130 and 152 of this title. Of the funds set aside under the preceding sentence, the State shall reserve in such fiscal year an amount of such funds for carrying out each such section which is not less than the amount of funds apportioned to the State in fiscal year 1991 under such section."

Subsec. (d)(2). Pub. L. 109–59, §1113(c), substituted "In a fiscal year, the greater of 10 percent of the funds apportioned to a State under section 104(b)(3) for such fiscal year, or the amount set aside under this paragraph with respect to the State for fiscal year 2005," for "10 percent of the funds apportioned to a State under section 104(b)(3) for a fiscal year".

Subsec. (d)(3)(A). Pub. L. 109–59, §1113(b)(2)(A)(ii), substituted "90 percent" for "80 percent" in introductory provisions.

Pub. L. 109–59, §1113(b)(2)(A)(i), substituted "subparagraph (C)" for "subparagraphs (C) and (D)" in introductory provisions.

Subsec. (d)(3)(B). Pub. L. 109–59, §1113(b)(2)(B), substituted "to be" for "tobe".

Subsec. (d)(3)(C) to (E). Pub. L. 109–59, §1113(b)(2)(C), redesignated subpar. (D) as (C), inserted period at end, redesignated par. (E) as (D), and struck out former sub-

par. (C) which related to special rule in the case of a State in which greater than 80 percent of the population of the State was located in 1 or more metropolitan statistical areas, and greater than 80 percent of the land area of such State was owned by the United States.

Subsec. (f). Pub. L. 109–59, § 1113(e), amended directory language of Pub. L. 105–178, § 1108(e). See 1998 Amendment note below.

Subsec. (f)(1). Pub. L. 109–59, § 1113(d), substituted ''2004 through 2006'' for ''1998 through 2000'' and ''2007 through 2009'' for ''2001 through 2003'' in introductory provisions.

1998—Subsec. (b)(1). Pub. L. 105–178, § 1108(a)(1), inserted '', sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions'' after ''calcium magnesium acetate''.

Subsec. (b)(2). Pub. L. 105–178, § 1108(a)(2), substituted '', including vehicles and facilities, whether publicly or privately owned, that are used to provide intercity passenger service by bus'' for ''and publicly owned intracity or intercity bus terminals and facilities''.

Subsec. (b)(3). Pub. L. 105–178, § 1108(a)(3), substituted ''bicycle'' for ''and bicycle'' and inserted before period at end '', and the modification of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)''.

Subsec. (b)(4). Pub. L. 105–178, § 1108(a)(4), substituted ''Highway and transit safety infrastructure'' for ''Highway and transit safety''.

Subsec. (b)(9). Pub. L. 105–178, § 1108(a)(5), substituted ''section 108(f)(1)(A) (other than clause (xvi)) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A))'' for ''section 108(f)(1)(A) (other than clauses (xii) and (xvi)) of the Clean Air Act''.

Subsec. (b)(11). Pub. L. 105–178, § 1108(a)(6), in first sentence, inserted ''natural habitat and'' after ''participation in'' in two places and also before ''wetlands conservation and mitigation plans'' and substituted ''enhance, and create natural habitats and wetlands'' for ''enhance and create wetlands'' and inserted at end ''With respect to participation in a natural habitat or wetland mitigation effort related to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference shall be given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605 (November 28, 1995)) or other applicable Federal law (including regulations).''

Subsec. (b)(13), (14). Pub. L. 105–178, § 1108(a)(7), added pars. (13) and (14).

Subsec. (d)(3)(D). Pub. L. 105–178, § 1108(b)(1), substituted ''Hawaii and Alaska'' for ''any State which is noncontiguous with the continental United States.''

Subsec. (d)(5)(C). Pub. L. 105–178, § 1212(a)(2)(A)(i), substituted ''State transportation department'' for ''State highway department''.

Subsec. (e)(2). Pub. L. 105–178, § 1108(c), added par. (2) and struck out heading and text of former par. (2). Text read as follows: ''The Governor of each State shall certify before the beginning of each quarter of a fiscal year that the State will meet all the requirements of this section and shall notify the Secretary of the amount of obligations expected to be incurred for surface transportation program projects during such quarter. A State may request adjustment to the obligation amounts later in each of such quarters. Acceptance of the notification and certification shall be deemed a contractual obligation of the United States for the payment of the surface transportation program funds expected to be obligated by the State in such quarter for projects not subject to review by the Secretary under this chapter.''

Subsec. (e)(3)(A). Pub. L. 105–178, § 1108(d), struck out at end ''Payments shall not exceed the Federal share of costs incurred as of the date the State requests payments.''

Subsec. (e)(3)(B)(i). Pub. L. 105–178, § 1108(b)(2)(A), struck out before period at end ''if the Secretary certifies for the fiscal year that the State has authorized and uses a process for the selection of transportation enhancement projects that involves representatives of affected public entities, and private citizens, with expertise related to transportation enhancement activities''.

Subsec. (e)(5)(C). Pub. L. 105–178, § 1108(b)(2)(B), added subpar. (C).

Subsec. (f). Pub. L. 105–178, § 1108(e), as amended by Pub. L. 109–59, § 1113(e), amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows: ''A State which is required to obligate in an urbanized area with an urbanized area population of over 200,000 under subsection (d) funds apportioned to it under section 104(b)(3) shall allocate during the 6-fiscal year period 1992 through 1997 an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction for use in such area determined by multiplying—

''(1) the aggregate amount of funds which the State is required to obligate in such area under subsection (d) during such period; by

''(2) the ratio of the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction during such period to the total sums apportioned to the State for Federal-aid highways and highway safety construction (excluding sums not subject to an obligation limitation) during such period.''

1995—Subsec. (d)(5). Pub. L. 104–59, § 315, added par. (5).

Subsec. (e)(3). Pub. L. 104–59, § 316(1), designated existing provisions as subpar. (A), inserted subpar. (A) heading, realigned margins, substituted ''Except as provided in subparagraph (B), the'' for ''The'', and added subpar. (B).

Subsec. (e)(5). Pub. L. 104–59, § 316(2), added par. (5).

1994—Subsec. (b)(2). Pub. L. 103–429 substituted ''chapter 53 of title 49'' for ''the Federal Transit Act''.

Effective Date of 2005 Amendment

Pub. L. 109–59, title I, § 1113(b)(3), Aug. 10, 2005, 119 Stat. 1172, provided that: ''Paragraph (1) and paragraph (2)(A)(ii) of this subsection [amending this section] shall take effect October 1, 2005.''

Pub. L. 109–59, title I, § 1113(c), Aug. 10, 2005, 119 Stat. 1172, provided that the amendment made by section 1113(c) is effective Oct. 1, 2005.

Pub. L. 109–59, title I, § 1113(e), Aug. 10, 2005, 119 Stat. 1172, provided that the amendment made by section 1113(e) is effective June 9, 1998.

Effective Date

Section effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as an Effective Date of 1991 Amendment note under section 104 of this title.

Division of STP Funds for Areas of Less Than 5,000 Population

Pub. L. 105–178, title I, § 1108(f), June 9, 1998, 112 Stat. 141, as amended by Pub. L. 110–244, title I, § 113(a), June 6, 2008, 122 Stat. 1606, provided that:

''(1) Special rule.—Notwithstanding section 133(c) of title 23, United States Code, and except as provided in paragraph (2), up to 15 percent of the amounts required to be obligated under section 133(d)(3)(B) of such title for each of fiscal years 1998 through 2009 may be obligated on roads functionally classified as minor collectors.

''(2) Suspension.—The Secretary may suspend the application of paragraph (1) if the Secretary determines that paragraph (1) is being used excessively.''

ENCOURAGEMENT OF USE OF YOUTH CONSERVATION OR SERVICE CORPS

Pub. L. 105–178, title I, §1108(g), June 9, 1998, 112 Stat. 141, provided that: ''The Secretary shall encourage the States to enter into contracts and cooperative agreements with qualified youth conservation or service corps to perform appropriate transportation enhancement activities under chapter 1 of title 23, United States Code.''

§134. Metropolitan transportation planning

(a) POLICY.—It is in the national interest to—

(1) encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and

(2) encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transit operators as guided by the planning factors identified in subsection (h) and section 135(d).

(b) DEFINITIONS.—In this section and section 135, the following definitions apply:

(1) METROPOLITAN PLANNING AREA.—The term ''metropolitan planning area'' means the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under subsection (e).

(2) METROPOLITAN PLANNING ORGANIZATION.—The term ''metropolitan planning organization'' means the policy board of an organization created as a result of the designation process in subsection (d).

(3) NONMETROPOLITAN AREA.—The term ''nonmetropolitan area'' means a geographic area outside designated metropolitan planning areas.

(4) NONMETROPOLITAN LOCAL OFFICIAL.—The term ''nonmetropolitan local official'' means elected and appointed officials of general purpose local government in a nonmetropolitan area with responsibility for transportation.

(5) TIP.—The term ''TIP'' means a transportation improvement program developed by a metropolitan planning organization under subsection (j).

(6) URBANIZED AREA.—The term ''urbanized area'' means a geographic area with a population of 50,000 or more, as designated by the Bureau of the Census.

(c) GENERAL REQUIREMENTS.—

(1) DEVELOPMENT OF LONG-RANGE PLANS AND TIPS.—To accomplish the objectives in subsection (a), metropolitan planning organizations designated under subsection (d), in cooperation with the State and public transportation operators, shall develop long-range transportation plans and transportation improvement programs for metropolitan planning areas of the State.

(2) CONTENTS.—The plans and TIPs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and TIPs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(d) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as named by the Bureau of the Census); or

(B) in accordance with procedures established by applicable State or local law.

(2) STRUCTURE.—Each metropolitan planning organization that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of—

(A) local elected officials;

(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and

(C) appropriate State officials.

(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities to—

(A) develop the plans and TIPs for adoption by a metropolitan planning organization; and

(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

(4) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

(5) REDESIGNATION PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of

the existing planning area population (including the largest incorporated city (based on population) as named by the Bureau of the Census) as appropriate to carry out this section.

(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

(e) METROPOLITAN PLANNING AREA BOUNDARIES.—

(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

(2) INCLUDED AREA.—Each metropolitan planning area—

(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) as of the date of enactment of the SAFETEA–LU, the boundaries of the metropolitan planning area in existence as of such date of enactment shall be retained; except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (d)(5).

(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of the SAFETEA–LU, as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

(A) shall be established in the manner described in subsection (d)(1);

(B) shall encompass the areas described in paragraph (2)(A);

(C) may encompass the areas described in paragraph (2)(B); and

(D) may address any nonattainment area identified under the Clean Air Act for ozone or carbon monoxide.

(f) COORDINATION IN MULTISTATE AREAS.—

(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any two or more States—

(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

(3) LAKE TAHOE REGION.—

(A) DEFINITION.—In this paragraph, the term ''Lake Tahoe region'' has the meaning given the term ''region'' in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96–551 (94 Stat. 3234).

(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section and section 135.

(C) INTERSTATE COMPACT.—

(i) IN GENERAL.—Subject to clause (ii), and notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

(II) FUNDING.—For fiscal year 2008 and each fiscal year thereafter, in addition to other funds made available to the metropolitan planning organization for the Lake Tahoe region under this title and chapter 53 of title 49, prior to any allocation under section 202 of this title and notwithstanding the allocation provisions of section 202, the Secretary shall

set aside ½ of 1 percent of all funds authorized to be appropriated for such fiscal year to carry out section 204 and shall make such funds available to the metropolitan planning organization for the Lake Tahoe region to carry out the transportation planning process, environmental reviews, preliminary engineering, and design to complete environmental documentation for transportation projects for the Lake Tahoe region under the Tahoe Regional Planning Compact as consented to in Public Law 96–551 (94 Stat. 3233) and this paragraph.

(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—

(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

(ii) may, in accordance with chapter 2, be funded using funds allocated under section 202.

(4) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

(g) MPO CONSULTATION IN PLAN AND TIP COORDINATION.—

(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and TIPs required by this section.

(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE MPOS.—If a transportation improvement, funded from the Highway Trust Fund or authorized under chapter 53 of title 49, is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans and TIPs regarding the transportation improvement.

(3) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—The Secretary shall encourage each metropolitan planning organization to consult with officials responsible for other types of planning activities that are affected by transportation in the area (including State and local planned growth, economic development, environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities. Under the metropolitan planning process, transportation plans and TIPs shall be developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the metropolitan area that are provided by—

(A) recipients of assistance under chapter 53 of title 49;

(B) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

(C) recipients of assistance under section 204.

(h) SCOPE OF PLANNING PROCESS.—

(1) IN GENERAL.—The metropolitan planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

(B) increase the safety of the transportation system for motorized and nonmotorized users;

(C) increase the security of the transportation system for motorized and nonmotorized users;

(D) increase the accessibility and mobility of people and for freight;

(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

(F) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

(G) promote efficient system management and operation; and

(H) emphasize the preservation of the existing transportation system.

(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this title or chapter 53 of title 49, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a TIP, a project or strategy, or the certification of a planning process.

(i) DEVELOPMENT OF TRANSPORTATION PLAN.—

(1) IN GENERAL.—Each metropolitan planning organization shall prepare and update a transportation plan for its metropolitan planning area in accordance with the requirements of this subsection. The metropolitan planning organization shall prepare and update such plan every 4 years (or more frequently, if the metropolitan planning organization elects to update more frequently) in the case of each of the following:

(A) Any area designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

(B) Any area that was nonattainment and subsequently designated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)) and that is subject to a maintenance plan under section 175A of that Act (42 U.S.C. 7505a).

In the case of any other area required to have a transportation plan in accordance with the requirements of this subsection, the metro-

politan planning organization shall prepare and update such plan every 5 years unless the metropolitan planning organization elects to update more frequently.

(2) TRANSPORTATION PLAN.—A transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

(A) IDENTIFICATION OF TRANSPORTATION FACILITIES.—An identification of transportation facilities (including major roadways, transit, multimodal and intermodal facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the transportation plan, the metropolitan planning organization shall consider factors described in subsection (h) as such factors relate to a 20-year forecast period.

(B) MITIGATION ACTIVITIES.—

(i) IN GENERAL.—A long-range transportation plan shall include a discussion of types of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

(ii) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

(C) FINANCIAL PLAN.—A financial plan that demonstrates how the adopted transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

(D) OPERATIONAL AND MANAGEMENT STRATEGIES.—Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.

(E) CAPITAL INVESTMENT AND OTHER STRATEGIES.—Capital investment and other strategies to preserve the existing and projected future metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs.

(F) TRANSPORTATION AND TRANSIT ENHANCEMENT ACTIVITIES.—Proposed transportation and transit enhancement activities.

(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act, the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

(4) CONSULTATION.—

(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

(B) ISSUES.—The consultation shall involve, as appropriate—

(i) comparison of transportation plans with State conservation plans or maps, if available; or

(ii) comparison of transportation plans to inventories of natural or historic resources, if available.

(5) PARTICIPATION BY INTERESTED PARTIES.—

(A) IN GENERAL.—Each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the transportation plan.

(B) CONTENTS OF PARTICIPATION PLAN.—A participation plan—

(i) shall be developed in consultation with all interested parties; and

(ii) shall provide that all interested parties have reasonable opportunities to comment on the contents of the transportation plan.

(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

(i) hold any public meetings at convenient and accessible locations and times;

(ii) employ visualization techniques to describe plans; and

(iii) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).

(6) PUBLICATION.—A transportation plan involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web, approved by the metropolitan planning

organization and submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

(7) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2)(C), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(C).

(j) METROPOLITAN TIP.—

(1) DEVELOPMENT.—

(A) IN GENERAL.—In cooperation with the State and any affected public transportation operator, the metropolitan planning organization designated for a metropolitan area shall develop a TIP for the area for which the organization is designated.

(B) OPPORTUNITY FOR COMMENT.—In developing the TIP, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

(C) FUNDING ESTIMATES.—For the purpose of developing the TIP, the metropolitan planning organization, public transportation agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

(D) UPDATING AND APPROVAL.—The TIP shall be updated at least once every 4 years and shall be approved by the metropolitan planning organization and the Governor.

(2) CONTENTS.—

(A) PRIORITY LIST.—The TIP shall include a priority list of proposed federally supported projects and strategies to be carried out within each 4-year period after the initial adoption of the TIP.

(B) FINANCIAL PLAN.—The TIP shall include a financial plan that—

(i) demonstrates how the TIP can be implemented;

(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program;

(iii) identifies innovative financing techniques to finance projects, programs, and strategies; and

(iv) may include, for illustrative purposes, additional projects that would be included in the approved TIP if reasonable additional resources beyond those identified in the financial plan were available.

(C) DESCRIPTIONS.—Each project in the TIP shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.

(3) INCLUDED PROJECTS.—

(A) PROJECTS UNDER THIS TITLE AND CHAPTER 53 OF TITLE 49.—A TIP developed under this subsection for a metropolitan area shall include the projects within the area that are proposed for funding under chapter 1 of this title and chapter 53 of title 49.

(B) PROJECTS UNDER CHAPTER 2.—

(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.

(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in one line item or identified individually in the transportation improvement program.

(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (i) for the area.

(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project or the identified phase within the time period contemplated for completion of the project or the identified phase.

(4) NOTICE AND COMMENT.—Before approving a TIP, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

(5) SELECTION OF PROJECTS.—

(A) IN GENERAL.—Except as otherwise provided in subsection (k)(4) and in addition to the TIP development required under paragraph (1), the selection of federally funded projects in metropolitan areas shall be carried out, from the approved TIP—

(i) by—

(I) in the case of projects under this title, the State; and

(II) in the case of projects under chapter 53 of title 49, the designated recipients of public transportation funding; and

(ii) in cooperation with the metropolitan planning organization.

(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved TIP in place of another project in the program.

(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illus-

trative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved TIP.

(7) PUBLICATION.—

(A) PUBLICATION OF TIPS.—A TIP involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the cooperative effort of the State, transit operator, and metropolitan planning organization for public review. The listing shall be consistent with the categories identified in the TIP.

(k) TRANSPORTATION MANAGEMENT AREAS.—

(1) IDENTIFICATION AND DESIGNATION.—

(A) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.

(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

(2) TRANSPORTATION PLANS.—In a transportation management area, transportation plans shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and public transportation operators.

(3) CONGESTION MANAGEMENT PROCESS.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under this title and chapter 53 of title 49 through the use of travel demand reduction and operational management strategies. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but no sooner than 1 year after the identification of a transportation management area.

(4) SELECTION OF PROJECTS.—

(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under this title (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program) or under chapter 53 of title 49 shall be selected for implementation from the approved TIP by the metropolitan planning organization designated for the area in consultation with the State and any affected public transportation operator.

(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a metropolitan planning area serving a transportation management area on the National Highway System and projects carried out within such boundaries under the bridge program or the Interstate maintenance program under this title shall be selected for implementation from the approved TIP by the State in cooperation with the metropolitan planning organization designated for the area.

(5) CERTIFICATION.—

(A) IN GENERAL.—The Secretary shall—

(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and

(ii) subject to subparagraph (B), certify, not less often than once every 4 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.

(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

(ii) there is a TIP for the metropolitan planning area that has been approved by the metropolitan planning organization and the Governor.

(C) EFFECT OF FAILURE TO CERTIFY.—

(i) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this title and chapter 53 of title 49.

(ii) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.

(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

(*l*) ABBREVIATED PLANS FOR CERTAIN AREAS.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and TIP for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or TIPs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act.

(m) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

(1) IN GENERAL.—Notwithstanding any other provisions of this title or chapter 53 of title 49, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be advanced in such area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (e).

(n) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this title or chapter 53 of title 49.

(*o*) FUNDING.—Funds set aside under section 104(f) of this title or section 5305(g) of title 49 shall be available to carry out this section.

(p) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and TIPs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in plans and TIPs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and TIPs described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a plan or TIP described in this section shall not be considered to be a Federal action subject to review under such Act.

(Added Pub. L. 87–866, §9(a), Oct. 23, 1962, 76 Stat. 1148; amended Pub. L. 91–605, title I, §143, Dec. 31, 1970, 84 Stat. 1737; Pub. L. 95–599, title I, §169, Nov. 6, 1978, 92 Stat. 2723; Pub. L. 102–240, title I, §1024(a), Dec. 18, 1991, 105 Stat. 1955; Pub. L. 102–388, title V, §502(b), Oct. 6, 1992, 106 Stat. 1566; Pub. L. 103–429, §3(5), Oct. 31, 1994, 108 Stat. 4377; Pub. L. 104–59, title III, §317, Nov. 28, 1995, 109 Stat. 588; Pub. L. 105–178, title I, §1203(a)–(m), (*o*), June 9, 1998, 112 Stat. 170–179; Pub. L. 105–206, title IX, §9003(c), July 22, 1998, 112 Stat. 839; Pub. L. 109–59, title VI, §6001(a), Aug. 10, 2005, 119 Stat. 1839; Pub. L. 110–244, title I, §101(n), June 6, 2008, 122 Stat. 1576.)

REFERENCES IN TEXT

The Clean Air Act, referred to in subsecs. (e)(4), (5)(D), (g)(1), (i)(3), (*l*)(2), and (m)(1), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The date of enactment of the SAFETEA–LU, referred to in subsec. (e)(4), (5), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

Public Law 96–551, referred to in subsec. (f)(3)(A), (C)(ii)(II), is Pub. L. 96–551, Dec. 19, 1980, 94 Stat. 3233, which is not classified to the Code.

The National Environmental Policy Act of 1969, referred to in subsec. (p), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2008—Subsec. (f)(3)(C)(ii)(II). Pub. L. 110–244, §101(n)(1), added subcl. (II) and struck out former subcl. (II). Prior to amendment, text read as follows: ''In addition to funds made available to the metropolitan planning organization for the Lake Tahoe region under other provisions of this title and under chapter 53 of title 49, 1 percent of the funds allocated under section 202 shall be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.''

Subsec. (j)(3)(D). Pub. L. 110–244, §101(n)(2), inserted ''or the identified phase'' after ''the project'' in two places.

Subsec. (k)(2). Pub. L. 110–244, §101(n)(3), struck out ''a metropolitan planning area serving'' before ''a transportation management area,''.

2005—Pub. L. 109–59 amended section catchline and text generally, substituting provisions relating to metropolitan transportation planning for provisions relating to, in subsec. (a), general requirements for development of transportation plans and programs for urbanized areas, in subsec. (b), designation of metropolitan planning organizations, in subsec. (c), determination of metropolitan planning area boundaries, in subsec. (d), coordination of transportation planning in multistate metropolitan areas, in subsec. (e), coordination of metropolitan planning organizations, in subsec. (f), scope of the planning process, in subsec. (g), development of a long-range transportation plan, in subsec. (h), development of a metropolitan area transportation improvement program, in subsec. (i), designation of transportation management areas, in subsec. (j), abbreviated plans and programs for areas not designated as transportation management areas, in subsec. (k), transfer of funds, in subsec. (*l*), additional requirements for nonattainment areas under the Clean Air Act,in subsec. (m), limitation on statutory construction, in subsec. (n), funding, and in subsec. (*o*), review of plans and programs under the National Environmental Policy Act of 1969.

1998—Subsec. (a). Pub. L. 105–178, §1203(a), reenacted heading without change and amended text of subsec. (a) generally. Prior to amendment, text read as follows: ''It is in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner which will efficiently maximize mobility of people and goods within and through urbanized areas and minimize transportation-related fuel consumption and air pollution. To accomplish this objective, metropolitan planning organizations, in cooperation with the State, shall develop transportation plans and programs for urbanized areas of the State. Such plans and programs shall provide for the development of transportation facilities (including pedestrian walkways and bicycle transportation facilities) which will function as an intermodal transportation system for the State, the metropolitan areas, and the Nation. The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems.''

Subsec. (b)(1), (2). Pub. L. 105–178, §1203(b)(1), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

''(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropoli-

tan planning organization shall be designated for each urbanized area of more than 50,000 population by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) or in accordance with procedures established by applicable State or local law.

''(2) MEMBERSHIP OF CERTAIN MPO'S.—In a metropolitan area designated as a transportation management area, the metropolitan planning organization designated for such area shall include local elected officials, officials of agencies which administer or operate major modes of transportation in the metropolitan area (including all transportation agencies included in the metropolitan planning organization on June 1, 1991) and appropriate State officials. This paragraph shall only apply to a metropolitan planning organization which is redesignated after the date of the enactment of this section.''

Subsec. (b)(4). Pub. L. 105–178, §1203(b)(2), reenacted heading without change and amended text of par. (4) generally. Prior to amendment, text read as follows: ''Designations of metropolitan planning organizations, whether made under this section or other provisions of law, shall remain in effect until redesignated under paragraph (5) or revoked by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population or as otherwise provided under State or local procedures.''

Subsec. (b)(5)(A). Pub. L. 105–178, §1203(b)(3), substituted ''agreement between the Governor'' for ''agreement among the Governor'' and ''government that together represent'' for ''government which together represent''.

Subsec. (b)(6). Pub. L. 105–178, §1203(b)(4), amended heading and text of par. (6) generally. Prior to amendment, text read as follows: ''More than 1 metropolitan planning organization may be designated within an urbanized area as defined by the Bureau of the Census only if the Governor determines that the size and complexity of the urbanized area make designation of more than 1 metropolitan planning organization for such area appropriate.''

Subsec. (c). Pub. L. 105–178, §1203(c), inserted ''Planning'' before ''Area'' in subsec. heading, designated first sentence as par. (1), inserted par. heading, and inserted ''planning'' before ''area'', added pars. (2) to (4), realigned margins, and struck out at end ''Each metropolitan area shall cover at least the existing urbanized area and the contiguous area expected to become urbanized within the 20-year forecast period and may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census. For areas designated as nonattainment areas for ozone or carbon monoxide under the Clean Air Act, the boundaries of the metropolitan area shall at least include the boundaries of the nonattainment area, except as otherwise provided by agreement between the metropolitan planning organization and the Governor.''

Subsec. (d). Pub. L. 105–178, §1203(d), reenacted heading without change and amended text of subsec. (d) generally. Prior to amendment, text read as follows:

''(1) IN GENERAL.—The Secretary shall establish such requirements as the Secretary considers appropriate to encourage Governors and metropolitan planning organizations with responsibility for a portion of a multi-State metropolitan area to provide coordinated transportation planning for the entire metropolitan area.

''(2) COMPACTS.—The consent of Congress is hereby given to any 2 or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as such activities pertain to interstate areas and localities within such States and to establish such agencies, joint or otherwise, as such States may deem desirable for making such agreements and compacts effective.''

Subsec. (e). Pub. L. 105–178, §1203(e), substituted ''MPOs'' for ''MPO's'' in subsec. heading, designated existing provisions as par. (1) and inserted par. heading, added par. (2), and realigned margins.

Subsec. (f). Pub. L. 105–178, §1203(f), amended heading and text of subsec. (f) generally, substituting provisions relating to scope of planning process for provisions relating to factors to be considered in developing transportation plans and programs.

Subsec. (g). Pub. L. 105–178, §1203(g)(6), substituted ''Long-Range Transportation Plan'' for ''Long Range Plan'' in heading.

Subsec. (g)(1). Pub. L. 105–178, §1203(g)(8), substituted ''long-range transportation plan'' for ''long range plan''.

Subsec. (g)(2). Pub. L. 105–178, §1203(g)(1), (7), (8), substituted ''Long-range transportation plan'' for ''Long range plan'' in heading and substituted ''long-range transportation plan'' for ''long range plan'' and ''contain, at a minimum, the following'' for '', at a minimum'' in introductory provisions.

Subsec. (g)(2)(A). Pub. L. 105–178, §1203(g)(2), (8), substituted ''An identification of'' for ''Identify'' and ''long-range transportation plan'' for ''long range plan''.

Subsec. (g)(2)(B). Pub. L. 105–178, §1203(g)(3), added subpar. (B) and struck out former subpar. (B) which read as follows: ''Include a financial plan that demonstrates how the long-range plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any innovative financing techniques to finance needed projects and programs, including such techniques as value capture, tolls and congestion pricing.''

Subsec. (g)(3). Pub. L. 105–178, §1203(g)(8), substituted ''long-range transportation plan'' for ''long range plan''.

Subsec. (g)(4). Pub. L. 105–178, §1203(g)(4), (8), substituted ''long-range transportation plan'' for ''long range plan'' in two places and inserted ''freight shippers, providers of freight transportation services,'' after ''transportation agency employees,'' and ''representatives of users of public transit,'' after ''private providers of transportation,''.

Subsec. (g)(5). Pub. L. 105–178, §1203(g)(7), (8), substituted ''long-range transportation plan'' for ''long range plan'' in heading and in introductory provisions.

Subsec. (g)(6). Pub. L. 105–178, §1203(g)(5), added par. (6).

Subsec. (h). Pub. L. 105–178, §1203(h), amended heading and text of subsec. (h) generally. Prior to amendment, text related to transportation improvement program, providing for development of program, priority and selection of projects, major capital investments, requirement of inclusion of projects within area proposed for funding, and provision of reasonable notice and opportunity to comment for interested citizens.

Subsec. (h)(5)(A). Pub. L. 105–178, §1203(*o*), as added by Pub. L. 105–206, §9003(c), struck out ''for implementation'' after ''federally funded projects'' in introductory provisions.

Subsec. (i)(1). Pub. L. 105–178, §1203(i)(1), reenacted heading without change and amended text of par. (1) generally. Prior to amendment, text read as follows: ''The Secretary shall designate as transportation management areas all urbanized areas over 200,000 population. The Secretary shall designate any additional area as a transportation management area upon the request of the Governor and the metropolitan planning organization designated for such area or the affected local officials. Such additional areas shall include upon such a request the Lake Tahoe Basin as defined by Public Law 96–551.''

Subsec. (i)(4). Pub. L. 105–178, §1203(i)(2), reenacted heading without change and amended text of par. (4) generally. Prior to amendment, text read as follows: ''All projects carried out within the boundaries of a transportation management area with Federal participation pursuant to this title (excluding projects under-

taken on the National Highway System and pursuant to the bridge and Interstate maintenance programs) or pursuant to chapter 53 of title 49 shall be selected by the metropolitan planning organization designated for such area in consultation with the State and in conformance with the transportation improvement program for such area and priorities established therein. Projects undertaken within the boundaries of a transportation management area on the National Highway System or pursuant to the bridge and Interstate maintenance programs shall be selected by the State in cooperation with the metropolitan planning organization designated for such area and shall be in conformance with the transportation improvement program for such area.''

Subsec. (i)(5). Pub. L. 105–178, §1203(i)(3), reenacted heading without change and amended text of par. (5) generally. Prior to amendment, text read as follows: ''The Secretary shall assure that each metropolitan planning organization in each transportation management area is carrying out its responsibilities under applicable provisions of Federal law, and shall so certify at least once every 3 years. The Secretary may make such certification only if (1) a metropolitan planning organization is complying with the requirements of this section and other applicable requirements of Federal law, and (2) there is a transportation improvement program for the area that has been approved by the metropolitan planning organization and the Governor. If after September 30, 1993, a metropolitan planning organization is not certified by the Secretary, the Secretary may withhold, in whole or in part, the apportionment under section 104(b)(3) attributed to the relevant metropolitan area pursuant to section 133(d)(3) and capital funds apportioned under the formula program under section 5336 of title 49. If a metropolitan planning organization remains uncertified for more than 2 consecutive years after September 30, 1994, 20 percent of the apportionment attributed to that metropolitan area under section 133(d)(3) and capital funds apportioned under the formula program under section 5336 of title 49 shall be withheld. The withheld apportionments shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary. The Secretary shall not withhold certification under this section based upon the policies and criteria established by a metropolitan planning organization or transit grant recipient for determining the feasibility of private enterprise participation in accordance with section 5306(a) of title 49.''

Subsec. (j). Pub. L. 105–178, §1203(j), reenacted heading without change and amended text of subsec. (j) generally. Prior to amendment, text read as follows: ''For metropolitan areas not designated as transportation management areas under this section, the Secretary may provide for the development of abbreviated metropolitan transportation plans and programs that the Secretary determines to be appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems, including transportation related air quality problems, in such areas. In no event shall the Secretary provide abbreviated plans or programs for metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act.''

Subsec. (*l*). Pub. L. 105–178, §1203(k), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (n). Pub. L. 105–178, §1203(*l*), amended heading and text of subsec. (n) generally. Prior to amendment, text read as follows: ''Any funds set aside pursuant to section 104(f) of this title that are not used for the purpose of carrying out this section may be made available by the metropolitan planning organization to the State for the purpose of funding activities under section 135.''

Subsec. (*o*). Pub. L. 105–178, §1203(m), added subsec. (*o*).

1995—Subsec. (f)(16). Pub. L. 104–59 added par. (16).

1994—Subsecs. (h)(5), (i)(3), (4). Pub. L. 103–429, §3(5)(A), substituted ''chapter 53 of title 49'' for ''the Federal Transit Act''.

Subsec. (i)(5). Pub. L. 103–429, §3(5)(B), substituted ''section 5336 of title 49'' for ''section 9 of the Federal Transit Act'' in two places and ''section 5306(a) of title 49'' for ''section 8(*o*) of the Federal Transit Act''.

Subsec. (k). Pub. L. 103–429, §3(5)(C), (D), substituted ''chapter 53 of title 49'' for ''the Federal Transit Act'' wherever appearing and ''chapter 53 funds'' for ''Federal Transit Act funds''.

Subsecs. (*l*), (m). Pub. L. 103–429, §3(5)(C), substituted ''chapter 53 of title 49'' for ''the Federal Transit Act''.

1992—Subsec. (k). Pub. L. 102–388 inserted at end ''The provisions of title 23, United States Code, regarding the non-Federal share shall apply to title 23 funds used for transit projects and the provisions of the Federal Transit Act regarding non-Federal share shall apply to Federal Transit Act funds used for highway projects.''

1991—Pub. L. 102–240 substituted section catchline for one which read: ''Transportation planning in certain urban areas'' and amended text generally, substituting present provisions for provisions relating to transportation planning in certain urban areas, including provisions stating transportation objectives, requiring continuing comprehensive planning process by States and local communities, and relating to redesignation of metropolitan planning organizations, designation of contiguous interstate areas as critical transportation regions and corridors, establishment of planning bodies for such regions and corridors, and authorization of appropriations.

1978—Subsec. (a). Pub. L. 95–599, §169(a), inserted provisions related to cooperation with local officials and specific considerations in the planning process.

Subsecs. (b), (c). Pub. L. 95–599, §169(b), added subsec. (b) and redesignated former subsec. (b) as (c).

1970—Pub. L. 91–605 designated existing provisions as subsec. (a), inserted provision prohibiting a highway construction project in any urban area of 50,000 or more population unless responsible public officials of such area have been consulted and their views considered with respect to the corridor, the location, and the design of the project, and added subsec. (b).

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

SCHEDULE FOR IMPLEMENTATION

Pub. L. 109–59, title VI, §6001(b), Aug. 10, 2005, 119 Stat. 1857, provided that: ''The Secretary [of Transportation] shall issue guidance on a schedule for implementation of the changes made by this section [amending this section and section 135 of this title], taking into consideration the established planning update cycle for States and metropolitan planning organizations. The Secretary shall not require a State or metropolitan planning organization to deviate from its established planning update cycle to implement changes made by this section. Beginning July 1, 2007, State or metropolitan planning organization plan or program updates shall reflect changes made by this section.''

DEMONSTRATION PROJECT FOR RESTRICTED ACCESS TO CENTRAL BUSINESS DISTRICT OF METROPOLITAN AREAS

Section 155 of Pub. L. 95–599 authorized Secretary of Transportation to carry out a demonstration project in

a metropolitan area respecting the restriction of access of motor vehicles to the central business district during peak hours of traffic, authorized the necessary appropriations, and required progress reports and a final report and recommendations not later than three years after Nov. 6, 1978.

REDUCTION OF URBAN BLIGHT ADJACENT TO FEDERAL-AID PRIMARY AND INTERSTATE HIGHWAYS LOCATED IN CENTRAL BUSINESS DISTRICTS

Section 159 of Pub. L. 95–599 directed Secretary to conduct a study and submit a report to Congress not later than two years after Nov. 6, 1978, respecting the potential for reducing urban blight adjacent to Federal-aid primary and interstate highways located in central business districts.

URBAN SYSTEM STUDY

Pub. L. 94–280, title I, § 149, May 5, 1976, 90 Stat. 447, directed Secretary of Transportation to conduct a study of the factors involved in planning, selection, etc., of Federal-aid urban system routes including an analysis of organizations carrying out the planning process, the status of jurisdiction over roads, programing responsibilities under local and State laws, and authority of local units, such study to be submitted to Congress within six months of May 5, 1976.

FRINGE PARKING DEMONSTRATION PROJECTS

Pub. L. 90–495, § 11, Aug. 23, 1968, 82 Stat. 820, authorized Secretary to approve construction of publicly owned parking facilities under this title until June 30, 1971, as a demonstration project, authorized the Federal share of any project under this section to be 50%, prevented approval of projects by the Secretary unless the State or political subdivision thereof where the project is located can construct, maintain, and operate the facility, unless the Secretary has entered into an agreement with the State or political subdivision governing the financing, maintenance, and operation of the facility, and unless the Secretary has approved design standards for construction of the facility, defined ''parking facilities'', permitted a State or political subdivision to contract for the operation of such facility, prohibited approval of the project by the Secretary unless it is carried on in accordance with section 134 of this title (this section), and required annual reports to Congress on the demonstration projects approved under this section, prior to repeal by Pub. L. 91–605, title I, § 134(c), Dec. 31, 1970, 84 Stat. 1734. See section 137 of this title.

§ 135. Statewide transportation planning

(a) GENERAL REQUIREMENTS.—

(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objectives stated in section 134(a), each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State, subject to section 134.

(2) CONTENTS.—The statewide transportation plan and the transportation improvement program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

(3) PROCESS OF DEVELOPMENT.—The process for developing the statewide plan and the transportation improvement program shall provide for consideration of all modes of transportation and the policies stated in section 134(a), and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—A State shall—

(1) coordinate planning carried out under this section with the transportation planning activities carried out under section 134 for metropolitan areas of the State and with statewide trade and economic development planning activities and related multistate planning efforts; and

(2) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

(c) INTERSTATE AGREEMENTS.—

(1) IN GENERAL.—The consent of Congress is granted to two or more States entering into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

(2) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

(d) SCOPE OF PLANNING PROCESS.—

(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for consideration and implementation of projects, strategies, and services that will—

(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

(B) increase the safety of the transportation system for motorized and nonmotorized users;

(C) increase the security of the transportation system for motorized and nonmotorized users;

(D) increase the accessibility and mobility of people and freight;

(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

(G) promote efficient system management and operation; and

(H) emphasize the preservation of the existing transportation system.

(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this title or chapter 53 of title 49, sub-

chapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, the transportation improvement program, a project or strategy, or the certification of a planning process.

(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall consider, at a minimum—

(1) with respect to nonmetropolitan areas, the concerns of affected local officials with responsibility for transportation;

(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

(3) coordination of transportation plans, the transportation improvement program, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

(f) LONG-RANGE STATEWIDE TRANSPORTATION PLAN.—

(1) DEVELOPMENT.—Each State shall develop a long-range statewide transportation plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

(2) CONSULTATION WITH GOVERNMENTS.—

(A) METROPOLITAN AREAS.—The statewide transportation plan shall be developed for each metropolitan area in the State in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134.

(B) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in consultation with affected nonmetropolitan officials with responsibility for transportation. The Secretary shall not review or approve the consultation process in each State.

(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the statewide transportation plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—

(i) IN GENERAL.—The long-range transportation plan shall be developed, as appropriate, in consultation with State, tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.

(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve comparison of transportation plans to State and tribal conservation plans or maps, if available, and comparison of transportation plans to inventories of natural or historic resources, if available.

(3) PARTICIPATION BY INTERESTED PARTIES.—

(A) IN GENERAL.—In developing the statewide transportation plan, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed plan.

(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

(i) hold any public meetings at convenient and accessible locations and times;

(ii) employ visualization techniques to describe plans; and

(iii) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).

(4) MITIGATION ACTIVITIES.—

(A) IN GENERAL.—A long-range transportation plan shall include a discussion of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

(B) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

(5) FINANCIAL PLAN.—The statewide transportation plan may include a financial plan that demonstrates how the adopted statewide transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted statewide transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects included in the financial plan described in paragraph (5).

(7) EXISTING SYSTEM.—The statewide transportation plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

(8) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each long-range transportation plan prepared by a State shall be published or otherwise made available, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web.

(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—

(1) DEVELOPMENT.—Each State shall develop a statewide transportation improvement program for all areas of the State. Such program shall cover a period of 4 years and be updated every 4 years or more frequently if the Governor elects to update more frequently.

(2) CONSULTATION WITH GOVERNMENTS.—

(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134.

(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area in the State, the program shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation. The Secretary shall not review or approve the specific consultation process in the State.

(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal government and the Secretary of the Interior.

(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the proposed program.

(4) INCLUDED PROJECTS.—

(A) IN GENERAL.—A transportation improvement program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

(B) LISTING OF PROJECTS.—An annual listing of projects for which funds have been obligated in the preceding year in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review. The listing shall be consistent with the funding categories identified in each metropolitan transportation improvement program.

(C) PROJECTS UNDER CHAPTER 2.—

(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.

(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in one line item or identified individually in the transportation improvement program.

(D) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project shall be—

(i) consistent with the statewide transportation plan developed under this section for the State;

(ii) identical to the project or phase of the project as described in an approved metropolitan transportation plan; and

(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act, if the project is carried out in an area designated as nonattainment for ozone, particulate matter, or carbon monoxide under such Act.

(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The transportation improvement program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

(F) FINANCIAL PLAN.—The transportation improvement program may include a financial plan that demonstrates how the approved transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the transportation improvement program, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F).

(ii) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F) for inclusion in an approved transportation improvement program.

(H) PRIORITIES.—The transportation improvement program shall reflect the priorities for programming and expenditures of funds, including transportation enhancement activities, required by this title and chapter 53 of title 49.

(5) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—Projects carried out in areas with populations of less than 50,000 individuals shall be selected, from the approved transportation improvement program (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program under this title or under sections 5310, 5311, 5316, and 5317 of title 49), by the State in cooperation with the affected nonmetropolitan local officials with responsibil-

ity for transportation. Projects carried out in areas with populations of less than 50,000 individuals on the National Highway System or under the bridge program or the Interstate maintenance program under this title or under sections 5310, 5311, 5316, and 5317 of title 49 shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected nonmetropolitan local officials with responsibility for transportation.

(6) TRANSPORTATION IMPROVEMENT PROGRAM APPROVAL.—Every 4 years, a transportation improvement program developed under this subsection shall be reviewed and approved by the Secretary if based on a current planning finding.

(7) PLANNING FINDING.—A finding shall be made by the Secretary at least every 4 years that the transportation planning process through which statewide transportation plans and programs are developed is consistent with this section and section 134.

(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project in the program.

(h) FUNDING.—Funds set aside pursuant to section 104(f) of this title and section 5305(g) of title 49, shall be available to carry out this section.

(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT PROCESSES.—For purposes of this section and section 134, and sections 5303 and 5304 of title 49, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management process under this section and section 134, and sections 5303 and 5304 of title 49, if the Secretary finds that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of this section and section 134 and sections 5303 and 5304 of title 49, as appropriate.

(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since the statewide transportation plan and the transportation improvement program described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the statewide transportation plans and the transportation improvement program are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning statewide transportation plans or the transportation improvement program described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a metropolitan or statewide transportation plan or the transportation improvement program described in this section shall not be considered to be a Federal action subject to review under such Act.

(Added Pub. L. 90–495, §10(a), Aug. 23, 1968, 82 Stat. 820; amended Pub. L. 91–605, title I, §§106(g), 125, Dec. 31, 1970, 84 Stat. 1718, 1729; Pub. L. 93–87, title I, §119, Aug. 13, 1973, 87 Stat. 259; Pub. L. 94–280, title I, §123(a), May 5, 1976, 90 Stat. 439; Pub. L. 102–240, title I, §1025(a), Dec. 18, 1991, 105 Stat. 1962; Pub. L. 103–429, §3(6), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 105–178, title I, §1204(a)–(h), June 9, 1998, 112 Stat. 180–184; Pub. L. 109–59, title VI, §6001(a), Aug. 10, 2005, 119 Stat. 1851.)

REFERENCES IN TEXT

The Clean Air Act, referred to in subsecs. (b)(2) and (g)(4)(D)(iii), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (j), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 135, Pub. L. 89–139, §4(a), Aug. 28, 1965, 79 Stat. 578, called for a highway safety program in each State approved by the Secretary, prior to repeal by Pub. L. 89–564, title I, §102(a), Sept. 9, 1966, 80 Stat. 734. See section 402 of this title.

AMENDMENTS

2005—Pub. L. 109–59 amended section catchline and text generally, substituting provisions relating to statewide transportation planning for provisions relating to, in subsec. (a), development of plans and programs by each State, in subsec. (b), coordination of State with Federal planning, in subsec. (c), scope of planning process, in subsec. (d), additional minimum requirements for each State to consider, in subsec. (e), development of a long-range transportation plan, in subsec. (f), development of a State transportation improvement program, in subsec. (g), funding, in subsec. (h), treatment of certain State laws as congestion management systems, and, in subsec. (i), review of plans and programs under the National Environmental Policy Act of 1969.

1998—Subsec. (a). Pub. L. 105–178, §1204(a), reenacted heading without change and amended text of subsec. (a) generally. Prior to amendment, text read as follows: ''It is in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve all areas of the State efficiently and effectively. Subject to section 134 of this title, the State shall develop transportation plans and programs for all areas of the State. Such plans and programs shall provide for development of transportation facilities (including pedestrian walkways and bicycle transportation facilities) which will function as an intermodal State transportation system. The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems.''

Subsec. (b). Pub. L. 105–178, §1204(b), inserted ''and sections 5303 through 5305 of title 49'' after ''section 134 of this title''.

Subsec. (c). Pub. L. 105–178, §1204(c), amended heading and text of subsec. (c) generally, substituting provisions relating to scope of planning process for provisions relating to considerations to be involved in State's continuous transportation planning process.

Subsec. (d). Pub. L. 105–178, §1204(d), reenacted heading without change and amended text of subsec. (d) generally. Prior to amendment, text read as follows: ''Each State in carrying out planning under this section shall, at a minimum, consider the following:

''(1) The coordination of transportation plans and programs developed for metropolitan areas of the

State under section 134 with the State transportation plans and programs developed under this section and the reconciliation of such plans and programs as necessary to ensure connectivity within transportation systems.

''(2) Investment strategies to improve adjoining State and local roads that support rural economic growth and tourism development, Federal agency renewable resources management, and multipurpose land management practices, including recreation development.

''(3) The concerns of Indian tribal governments having jurisdiction over lands within the boundaries of the State.''

Subsec. (e). Pub. L. 105–178, § 1204(e), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: ''The State shall develop a long-range transportation plan for all areas of the State. With respect to metropolitan areas of the State, the plan shall be developed in cooperation with metropolitan planning organizations designated for metropolitan areas in the State under section 134. With respect to areas of the State under the jurisdiction of an Indian tribal government, the plan shall be developed in cooperation with such government and the Secretary of the Interior. In developing the plan, the State shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed plan. In addition, the State shall develop a long-range plan for bicycle transportation and pedestrian walkways for appropriate areas of the State which shall be incorporated into the long-range transportation plan.''

Subsec. (f). Pub. L. 105–178, § 1204(f), amended heading and text of subsec. (f) generally. Prior to amendment, text related to transportation improvement programs, including program development, requirement for inclusion of certain projects for State transportation improvement program, project selection for areas less than 50,000 population, and requirement of biennial review and approval.

Subsec. (g). Pub. L. 105–178, § 1204(g), which directed substitution of ''section 505(a)'' for ''section 307(c)(1)'' in section 134(g), was executed by making the substitution in subsec. (g) of this section to reflect the probable intent of Congress.

Subsec. (i). Pub. L. 105–178, § 1204(h), added subsec. (i).

1994—Subsec. (f)(2). Pub. L. 103–429, § 3(6)(A), substituted ''chapter 53 of title 49'' for ''the Federal Transit Act''.

Subsec. (h). Pub. L. 103–429, § 3(6)(B), substituted ''sections 5303–5306 and 5323(k) of title 49'' for ''section 8 of the Federal Transit Act, United States Code'' and ''section 8 of such Act''.

1991—Pub. L. 102–240 substituted section catchline for one which read: ''Traffic operations improvement programs'', and amended text generally. Prior to amendment, text read as follows:

''(a) The Congress hereby finds and declares it to be in the national interest that each State shall have a continuing program designed to reduce traffic congestion and facilitate the flow of traffic.

''(b) The Secretary may approve under this section any project for improvements on any public road which project will directly facilitate and control traffic flow on any of the Federal-aid systems.''

1976—Pub. L. 94–280 struck out introductory words ''Urban area'' in section catchline.

Subsec. (a). Pub. L. 94–280 struck out ''within the designated boundaries of urban areas of the State'' and ''in the urban areas'' after ''continuing program'' and ''flow of traffic'', respectively.

Subsec. (b). Pub. L. 94–280 substituted ''any project for improvements on any public road which project will directly facilitate and control traffic flow on any of the Federal-aid systems'' for ''any project on an extension of the Federal-aid primary or secondary system in urban areas and on the Federal-aid urban system for improvements which directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and loading and unloading ramps. If such project is located in an urban area of more than fifty thousand population, such project shall be based on a continuing comprehensive transportation planning process carried on in accordance with section 134 of this title''.

Subsec. (c). Pub. L. 94–280 struck out subsec. (c) which provided for an annual report by the Secretary on projects approved under this section with recommendations for further improvement of traffic operations in accordance with this section.

1973—Subsecs. (c), (d). Pub. L. 93–87 struck out subsec. (c) which provided for apportionment of sums authorized to carry out this section in accordance with section 104(b)(3) of this title, and redesignated subsec. (d) as (c).

1970—Subsec. (b). Pub. L. 91–605 inserted reference to the Federal-aid urban system and required that projects under this section be based on a continuing comprehensive transportation planning process carried on in accordance with section 134 of this title only in urban areas of more than fifty thousand population.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

EFFECTIVE DATE

Section effective Aug. 23, 1968, see section 37 of Pub. L. 90–495, set out as an Effective Date of 1968 Amendment note under section 101 of this title.

PARTICIPATION OF LOCAL ELECTED OFFICIALS

Pub. L. 105–178, title I, § 1204(i), June 9, 1998, 112 Stat. 184, provided that:

''(1) STUDY.—The Secretary shall conduct a study on the effectiveness of the participation of local elected officials in transportation planning and programming. In conducting the study, the Secretary shall consider the degree of cooperation between each State, local officials in rural areas in the State, and regional planning and development organizations in the State.

''(2) REPORT.—Not later than 2 years after the date of enactment of this Act [June 9, 1998], the Secretary shall transmit to Congress a report containing the results of the study with any recommendations the Secretary determines appropriate as a result of the study.''

ADVANCED TRAVEL FORECASTING PROCEDURES PROGRAM

Pub. L. 109–59, title V, § 5512, Aug. 10, 2005, 119 Stat. 1828, as amended by Pub. L. 110–244, title I, § 111(g)(2), June 6, 2008, 122 Stat. 1605, provided that:

''(a) CONTINUATION AND ACCELERATION OF TRANSIMS DEPLOYMENT.—

''(1) IN GENERAL.—The Secretary [of Transportation] shall accelerate the deployment of the advanced transportation model known as the 'Transportation Analysis Simulation System' (in this section referred to as 'TRANSIMS'), developed by the Los Alamos National Laboratory.

''(2) PROGRAM APPLICATION.—The purpose of the program is to assist State departments of transportation and metropolitan planning organizations—

''(A) to implement TRANSIMS;

''(B) to develop methods for TRANSIMS applications to transportation planning, air quality analysis, regulatory compliance, and response to natural disasters and other transportation disruptions; and

''(C) to provide training and technical assistance for the implementation of TRANSIMS.

''(b) REQUIRED ACTIVITIES.—The Secretary [of Transportation] shall use funds made available to carry out this section to—

''(1) provide funding to State departments of transportation and metropolitan planning organizations serving transportation management areas designated under chapter 52 [53] of title 49, United States Code, representing a diversity of populations, geographic regions, and analytic needs to implement TRANSIMS;

''(2) develop methods to demonstrate a wide spectrum of TRANSIMS applications to support local, metropolitan, statewide transportation planning, including integrating highway and transit operational considerations into the transportation Planning process, and estimating the effects of induced travel demand and transit ridership in making transportation conformity determinations where applicable;

''(3) provide training and technical assistance with respect to the implementation and application of TRANSIMS to States, local governments, and metropolitan planning organizations with responsibility for travel modeling;

''(4) to further develop TRANSIMS for additional applications, including—

''(A) congestion analyses;

''(B) major investment studies;

''(C) economic impact analyses;

''(D) alternative analyses;

''(E) freight movement studies;

''(F) emergency evacuation studies;

''(G) port studies;

''(H) airport access studies;

''(I) induced demand studies; and

''(J) transit ridership analysis.

''(c) ELIGIBLE ACTIVITIES.—The program may support the development of methods to plan for the transportation response to chemical and biological terrorism and other security concerns.

''(d) ALLOCATION OF FUNDS.—Not more than 75 percent of the funds made available to carry out this section may be allocated to activities described in subsection (b)(1).

''(e) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act [119 Stat. 1779], $2,625,000 for each of fiscal years 2006 through 2009 shall be available to carry out this section.''

Pub. L. 105–178, title I, §1210, June 9, 1998, 112 Stat. 187, provided that:

''(a) ESTABLISHMENT.—The Secretary shall establish an advanced travel forecasting procedures program—

''(1) to provide for completion of the advanced transportation model developed under the Transportation Analysis Simulation System (referred to in this section as 'TRANSIMS'); and

''(2) to provide support for early deployment of the advanced transportation modeling computer software and graphics package developed under TRANSIMS and the program established under this section to States, local governments, and metropolitan planning organizations with responsibility for travel modeling.

''(b) ELIGIBLE ACTIVITIES.—The Secretary shall use funds made available under this section to—

''(1) provide funding for completion of core development of the advanced transportation model;

''(2) develop user-friendly advanced transportation modeling computer software and graphics packages;

''(3) provide training and technical assistance with respect to the implementation and application of the advanced transportation model to States, local governments, and metropolitan planning organizations with responsibility for travel modeling; and

''(4) allocate funds to not more than 12 entities described in paragraph (3), representing a diversity of populations and geographic regions, for a pilot program to enable transportation management areas designated under section 134(i) of title 23, United States Code, to convert from the use of travel forecasting procedures in use by the areas as of the date of enactment of this Act [June 9, 1998] to the use of the advanced transportation model.

''(c) FUNDING.—

''(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $4,000,000 for fiscal year 1998, $3,000,000 for fiscal year 1999, $6,500,000 for fiscal year 2000, $5,000,000 for fiscal year 2001, $4,000,000 for fiscal year 2002, and $2,500,000 for fiscal year 2003.

''(2) ALLOCATION OF FUNDS.—

''(A) FISCAL YEARS 1998 AND 1999.—For each of fiscal years 1998 and 1999, 100 percent of the funds made available under paragraph (1) shall be allocated to activities as described in paragraphs (1), (2), and (3) of subsection (b).

''(B) FISCAL YEARS 2000 THROUGH 2003.—For each of fiscal years 2000 through 2003, not more than 50 percent of the funds made available under paragraph (1) may be allocated to activities described in subsection (b)(4).

''(3) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of—

''(A) any activity described in paragraph (1), (2), or (3) of subsection (b) shall not exceed 100 percent; and

''(B) any activity described in subsection (b)(4) shall not exceed 80 percent.''

DEMONSTRATION PROJECT FOR AUTOMATED ROADWAY MANAGEMENT SYSTEM

Pub. L. 95–599, title I, §154, Nov. 6, 1978, 92 Stat. 2716, provided that:

''(a) The Secretary of Transportation is authorized to carry out a demonstration project of the use of a sophisticated automated roadway management system to increase the capacity and safety of automobile travel in high density travel corridors without providing additional lanes of pavement. The management system shall coordinate the traffic flow in major freeways and arterials servicing the travel corridor by use of an integrated system of vehicle sensors to monitor traffic, computers to assess traffic conditions throughout the corridor, and devices to communicate with drivers, police, and emergency equipment.

''(b) There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund, not to exceed $1,500,000 for the fiscal year ending September 30, 1979, not to exceed $2,500,000 for the fiscal year ending September 30, 1980, and not to exceed $26,000,000 for the fiscal year ending September 30, 1981.

''(c) The Federal share payable on account of any project authorized under this section shall not exceed 90 per centum of the total cost thereof.

''(d) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall not exceed 90 per centum.''

TRAFFIC CONTROL SIGNALIZATION DEMONSTRATION PROJECTS; REPORTS TO SECRETARY OF TRANSPORTATION; REPORT TO CONGRESS

Section 146 of Pub. L. 94–280 provided that:

''(a) The Secretary of Transportation is authorized to carry out traffic control signalization demonstration projects designed to demonstrate through the use of technology not now in general use the increased capacity of existing highways, the conservation of fuel, the decrease in traffic congestion, the improvement in air and noise quality, and the furtherance of highway safety, giving priority to those projects providing coordinated signalization of two or more intersections. Such projects can be carried out on any highway whether on or off a Federal-aid system.

''(b) There is authorized to be appropriated to carry out this section of the Highway Trust Fund, not to exceed $40,000,000 for the fiscal year ending September 30, 1977, and $40,000,000 for the fiscal year ending September 30, 1978.

''(c) Each participating State shall report to the Secretary of Transportation not later than September 30, 1977, and not later than September 30 of each year thereafter, on the progress being made in implementing this section and the effectiveness of the improvements made under it. Each report shall include an analysis and evaluation of the benefits resulting from such projects comparing an adequate time period before and after treatment in order to properly assess the benefits occurring from such traffic control signalization. The Secretary of Transportation shall submit a report to the Congress not later than January 1, 1978, on the progress being made in implementing this section and an evaluation of the benefits resulting therefrom.''

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 89–285, title III, § 304, Oct. 22, 1965, 79 Stat. 1033, as amended by Pub. L. 97–449, § 2(a), Jan. 12, 1983, 96 Stat. 2439, provided that: ''There is authorized to be appropriated the sum of $500,000 to enable the Secretary to carry out his functions under section 135 of title 23 of the United States Code relating to highway safety programs.''

§ 136. Control of junkyards

(a) The Congress hereby finds and declares that the establishment and use and maintenance of junkyards in areas adjacent to the Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty.

(b) Federal-aid highway funds apportioned on or after January 1, 1968, to any State which the Secretary determines has not made provision for effective control of the establishment and maintenance along the Interstate System and the primary system of outdoor junkyards, which are within one thousand feet of the nearest edge of the right-of-way and visible from the main traveled way of the system, shall be reduced by amounts equal to 10 per centum of the amounts which would otherwise be apportioned to such State under section 104 of this title, until such time as such State shall provide for such effective control. Any amount which is withheld from apportionment to any State hereunder shall be reapportioned to the other States. Whenever he determines it to be in the public interest, the Secretary may suspend, for such periods as he deems necessary, the application of this subsection to a State.

(c) Effective control means that by January 1, 1968, such junkyards shall be screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main traveled way of the system, or shall be removed from sight.

(d) The term ''junk'' shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(e) The term ''automobile graveyard'' shall mean any establishment or place of business which is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

(f) The term ''junkyard'' shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

(g) Notwithstanding any provision of this section, junkyards, auto graveyards, and scrap metal processing facilities may be operated within areas adjacent to the Interstate System and the primary system which are within one thousand feet of the nearest edge of the right-of-way and which are zoned industrial under authority of State law, or which are not zoned under authority of State law, but are used for industrial activities, as determined by the several States subject to approval by the Secretary.

(h) Notwithstanding any provision of this section, any junkyard in existence on the date of enactment of this section which does not conform to the requirements of this section and which the Secretary finds as a practical matter cannot be screened, shall not be required to be removed until July 1, 1970.

(i) The Federal share of landscaping and screening costs under this section shall be 75 per centum.

(j) Just compensation shall be paid the owner for the relocation, removal, or disposal of junkyards lawfully established under State law. The Federal share of such compensation shall be 75 per centum.

(k) All public lands or reservations of the United States which are adjacent to any portion of the interstate and primary systems shall be effectively controlled in accordance with the provisions of this section.

(*l*) Nothing in this section shall prohibit a State from establishing standards imposing stricter limitations with respect to outdoor junkyards on the Federal-aid highway systems than those established under this section.

(m) There is authorized to be appropriated to carry out this section, out of any money in the Treasury not otherwise appropriated, not to exceed $20,000,000 for the fiscal year ending June 30, 1966, not to exceed $20,000,000 for the fiscal year ending June 30, 1967, not to exceed $3,000,000 for the fiscal year ending June 30, 1970, not to exceed $3,000,000 for the fiscal year ending June 30, 1971, not to exceed $3,000,000 for the fiscal year ending June 30, 1972, and not to exceed $5,000,000 for the fiscal year ending June 30, 1973. The provisions of this chapter relating to the obligation, period of availability, and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967.

(Added Pub. L. 89–285, title II, § 201, Oct. 22, 1965, 79 Stat. 1030; amended Pub. L. 89–574, § 8(a), Sept. 13, 1966, 80 Stat. 768; Pub. L. 90–495, § 6(e), Aug. 23, 1968, 82 Stat. 818; Pub. L. 91–605, title I, § 122(b), Dec. 31, 1970, 84 Stat. 1726; Pub. L. 93–643, § 110, Jan. 4, 1975, 88 Stat. 2285.)

AMENDMENTS

1975—Subsec. (j). Pub. L. 93–643 substituted provision that compensation shall be paid the owner for the relo-

cation, removal, or disposal of junkyards lawfully established under State law, for provision relating to payment of just compensation for relocation, removal, or disposal of junkyards (1) lawfully in existence on Oct. 22, 1965, (2) lawfully along any highway made a part of the interstate or primary system on or after Oct. 22, 1965, and before Jan. 1, 1968, and (3) lawfully established on or after Jan. 1, 1968.

1970—Subsec. (m). Pub. L. 91–605 authorized to be appropriated not to exceed $3,000,000, $3,000,000, and $5,000,000, for the fiscal years ending June 30, 1971, 1972, and 1973, respectively.

1968—Subsec. (m). Pub. L. 90–495 inserted provision authorizing an appropriation of not to exceed $3,000,000 for the fiscal year ending June 30, 1970.

1966—Subsec. (m). Pub. L. 89–574 substituted provisions making applicable to the funds authorized to be appropriated to carry out this section after June 30, 1967, the provisions of chapter 1 of this title relating to the obligation, period of availability, and expenditure of Federal-aid primary highway funds for provisions prohibiting the use of any part of the Highway Trust Fund in carrying out this section.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–495 effective August 23, 1968, see section 37 of Pub. L. 90–495, set out as a note under section 502 of this title.

ACQUISITION OF DWELLINGS

Prohibition against the use of eminent domain to acquire any dwelling (including related buildings) under the terms of Pub. L. 89–285, see section 305 of Pub. L. 89–285, set out as a note under section 131 of this title.

TAKING OF PRIVATE PROPERTY WITHOUT JUST COMPENSATION

Prohibition against the taking of private property or the restriction of reasonable and existing use by such taking without just compensation under the terms of Pub. L. 89–285, see section 401 of Pub. L. 89–285, set out as a note under section 131 of this title.

§ 137. Fringe and corridor parking facilities

(a) The Secretary may approve as a project on a Federal-aid highway the acquisition of land adjacent to the right-of-way outside a central business district, as defined by the Secretary, and the construction of publicly owned parking facilities thereon or within such right-of-way, including the use of the air space above and below the established grade line of the highway pavement, to serve an urban area of fifty thousand population or more. Such parking facility shall be located and designed in conjunction with existing or planned public transportation facilities. In the event fees are charged for the use of any such facility, the rate thereof shall not be in excess of that required for maintenance and operation (including compensation to any person for operating such facility).

(b) The Secretary shall not approve any project under this section until—

(1) he has determined that the State, or the political subdivision thereof, where such project is to be located, or any agency or instrumentality of such State or political subdivision, has the authority and capability of constructing, maintaining, and operating the facility;

(2) he has entered into an agreement governing the financing, maintenance, and operation of the parking facility with such State, political subdivision, agency, or instrumentality, including necessary requirements to insure that adequate public transportation services will be available to persons using such facility; and

(3) he has approved design standards for constructing such facility developed in cooperation with the State transportation department.

(c) The term ''parking facilities'' for purposes of this section shall include access roads, buildings, structures, equipment, improvements, and interests in lands.

(d) Nothing in this section, or in any rule or regulation issued under this section, or in any agreement required by this section, shall prohibit (1) any State, political subdivision, or agency or instrumentality thereof, from contracting with any person to operate any parking facility constructed under this section, or (2) any such person from so operating such facility.

(e) The Secretary shall not approve any project under this section unless he determines that it is based on a continuing comprehensive transportation planning process carried on in accordance with section 134 of this title.

(f)(1) The Secretary may approve for Federal financial assistance from funds apportioned under section 104(b)(4), projects for designating existing facilities, or for acquisition of rights of way or construction of new facilities, for use as preferential parking for carpools, provided that such facilities (A) are located outside of a central business district and within an interstate highway corridor, and (B) have as their primary purpose the reduction of vehicular traffic on the interstate highway.

(2) Nothing in this subsection, or in any rule or regulation issued under this subsection, or in any agreement required by this subsection, shall prohibit (A) any State, political subdivision, or agency or instrumentality thereof, from contracting with any person to operate any parking facility designated or constructed under this subsection, or (B) any such person from so operating such facility. Any fees charged for the use of any such facility in connection with the purpose of this subsection shall not be in excess of the amount required for operation and maintenance, including compensation to any person for operating the facility.

(3) For the purposes of this subsection, the terms ''facilities'' and ''parking facilities'' are synonymous and shall have the same meaning given ''parking facilities'' in subsection (c) of this section.

(Added Pub. L. 89–574, § 8(c)(1), Sept. 13, 1966, 80 Stat. 768; amended Pub. L. 91–605, title I, § 134(a), Dec. 31, 1970, 84 Stat. 1733; Pub. L. 97–424, title I, § 118, Jan. 6, 1983, 96 Stat. 2110; Pub. L. 105–178, title I, §§ 1103(*l*)(3)(B), 1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 126, 193; Pub. L. 109–59, title I, § 1921, Aug. 10, 2005, 119 Stat. 1480.)

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–59 substituted ''on a Federal-aid highway'' for ''on the Federal-aid urban system''.

1998—Subsec. (b)(3). Pub. L. 105–178, § 1212(a)(2)(A)(i), substituted ''State transportation department'' for ''State highway department''.

Subsec. (f)(1). Pub. L. 105–178, § 1103(*l*)(3)(B), substituted ''section 104(b)(4)'' for ''section 104(b)(5)(B) of this title''.

1983—Subsec. (f). Pub. L. 97–424 added subsec. (f).

1970—Pub. L. 91–605 substituted ''Fringe and corridor parking facilities'' for ''Limitation on authorization of appropriations for certain purposes'' in section catchline.

Subsec. (a). Pub. L. 91–605 substituted provisions permitting the Secretary to approve construction of publicly owned parking facilities under the Federal-aid urban system for provisions limiting authorization of appropriations under section 131, 136, and 319(b) of this title, or any highway safety bill enacted after May 1, 1966 by preventing these sections and provisions from being construed as authority for any appropriations not specifically authorized in these sections and provisions.

Subsec. (b). Pub. L. 91–605 substituted provisions preventing project approval by the Secretary unless the State or political subdivision thereof where the project is located can construct, maintain, and operate the facility, unless the Secretary has entered into an agreement with the State or political subdivision governing the financing, maintenance, and operation of the facility, and unless the Secretary has approved design standards for construction of the facility for provisions limiting authorization of appropriations under sections 131, 136, and 319(b) of this title, or any highway safety bill enacted after May 1, 1966 by preventing appropriations to carry out these sections and provisions unless they are specific as to the amount authorized and as to the fiscal year.

Subsec. (c). Pub. L. 91–605 substituted provisions defining ''parking facilities'' for provisions limiting authorization of appropriations under sections 131, 136, and 319(b) of this title, or any highway safety bill enacted after May 1, 1966 by preventing the highway trust fund from being a source of appropriation for these sections and provisions in an amount exceeding the tax imposed by section 4061(a)(2) of Title 26, if such tax was imposed at a rate of 1% plus additional amounts appropriated from the general fund to the highway trust fund for such purposes except that the total of all appropriations made from such fund to carry out these sections and provisions shall never exceed the total of all appropriations made to such fund based on the imposition of such tax plus additional amounts appropriated from the general fund to the highway trust fund for such purposes.

Subsecs. (d), (e). Pub. L. 91–605 added subsecs. (d) and (e).

TRUCK PARKING FACILITIES

Pub. L. 109–59, title I, §1305, Aug. 10, 2005, 119 Stat. 1214, provided that:

''(a) ESTABLISHMENT.—In cooperation with appropriate State, regional, and local governments, the Secretary [of Transportation] shall establish a pilot program to address the shortage of long-term parking for commercial motor vehicles on the National Highway System.

''(b) ALLOCATION OF FUNDS.—

''(1) IN GENERAL.—The Secretary [of Transportation] shall allocate funds made available to carry out this section among States, metropolitan planning organizations, and local governments.

''(2) APPLICATIONS.—To be eligible for an allocation under this section, a State (as defined in section 101(a) of title 23, United States Code), metropolitan planning organization, or local government shall submit to the Secretary an application at such time and containing such information as the Secretary may require.

''(3) ELIGIBLE PROJECTS.—Funds allocated under this subsection shall be used by the recipient for projects described in an application approved by the Secretary. Such projects shall serve the National Highway System and may include the following:

''(A) Constructing safety rest areas (as defined in section 120(c) of title 23, United States Code) that include parking for commercial motor vehicles.

''(B) Constructing commercial motor vehicle parking facilities adjacent to commercial truck stops and travel plazas.

''(C) Opening existing facilities to commercial motor vehicle parking, including inspection and weigh stations and park-and-ride facilities.

''(D) Promoting the availability of publicly or privately provided commercial motor vehicle parking on the National Highway System using intelligent transportation systems and other means.

''(E) Constructing turnouts along the National Highway System for commercial motor vehicles.

''(F) Making capital improvements to public commercial motor vehicle parking facilities currently closed on a seasonal basis to allow the facilities to remain open year-round.

''(G) Improving the geometric design of interchanges on the National Highway System to improve access to commercial motor vehicle parking facilities.

''(4) PRIORITY.—In allocating funds made available to carry out this section, the Secretary shall give priority to applicants that—

''(A) demonstrate a severe shortage of commercial motor vehicle parking capacity in the corridor to be addressed;

''(B) have consulted with affected State and local governments, community groups, private providers of commercial motor vehicle parking, and motorist and trucking organizations; and

''(C) demonstrate that their proposed projects are likely to have positive effects on highway safety, traffic congestion, or air quality.

''(c) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act [Aug. 10, 2005], the Secretary [of Transportation] shall submit to Congress a report on the results of the pilot program.

''(d) FUNDING.—

''(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $6,250,000 for each of fiscal years 2006 through 2009.

''(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of a project under this section shall be determined in accordance with sections 120(b) and 120(c) of such title.

''(e) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded under this section shall be treated as projects on a Federal-aid system under chapter 1 of title 23, United States Code.''

§ 138. Preservation of parklands

(a) DECLARATION OF POLICY.—It is declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites. The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed. After the effective date of the Federal-Aid Highway Act of 1968, the Secretary shall not approve any program or project (other than any project for a park road or parkway under section 204 of this title) which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of

national, State, or local significance as so determined by such officials unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use. In carrying out the national policy declared in this section the Secretary, in cooperation with the Secretary of the Interior and appropriate State and local officials, is authorized to conduct studies as to the most feasible Federal-aid routes for the movement of motor vehicular traffic through or around national parks so as to best serve the needs of the traveling public while preserving the natural beauty of these areas.

(b) DE MINIMIS IMPACTS.—

(1) REQUIREMENTS.—

(A) REQUIREMENTS FOR HISTORIC SITES.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.

(B) REQUIREMENTS FOR PARKS, RECREATION AREAS, AND WILDLIFE OR WATERFOWL REFUGES.—The requirements of subsection (a)(1) shall be considered to be satisfied with respect to an area described in paragraph (3) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area. The requirements of subsection (a)(2) with respect to an area described in paragraph (3) shall not include an alternatives analysis.

(C) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

(A) the Secretary has determined, in accordance with the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f), that—

(i) the transportation program or project will have no adverse effect on the historic site; or

(ii) there will be no historic properties affected by the transportation program or project;

(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation if the Council is participating in the consultation process); and

(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

(3) PARKS, RECREATION AREAS, AND WILDLIFE OR WATERFOWL REFUGES.—With respect to parks, recreation areas, or wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

(A) the Secretary has determined, after public notice and opportunity for public review and comment, that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.

(Added Pub. L. 89–574, §15(a), Sept. 13, 1966, 80 Stat. 771; amended Pub. L. 90–495, §18(a), Aug. 23, 1968, 82 Stat. 823; Pub. L. 94–280, title I, §124, May 5, 1976, 90 Stat. 440; Pub. L. 100–17, title I, §133(b)(10), Apr. 2, 1987, 101 Stat. 171; Pub. L. 109–59, title VI, §6009(a)(1), Aug. 10, 2005, 119 Stat. 1874.)

REFERENCES IN TEXT

For the effective date of the Federal-Aid Highway Act of 1968, referred to in subsec. (a), see section 37 of Pub. L. 90–495, as amended, set out as an Effective Date of 1968 Amendment note under section 101 of this title.

AMENDMENTS

2005—Pub. L. 109–59, §6009(a)(1)(A), which directed substitution of ''(a) DECLARATION OF POLICY.—It is'' for ''it is hereby'', was executed by making the substitution for ''It is hereby'' to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 109–59, §6009(a)(1)(B), added subsec. (b).

1987—Pub. L. 100–17 inserted ''(other than any project for a park road or parkway under section 204 of this title)'' before ''which requires'' in third sentence.

1976—Pub. L. 94–280 authorized the Secretary, in cooperation with the Secretary of the Interior and appropriate State and local officials, to conduct studies as to the most feasible Federal-aid routes for the movement of motor vehicular traffic through or around national parks so as to best serve the needs of the traveling public while preserving the natural beauty of these areas.

1968—Pub. L. 90–495 amended section generally so as to render it identical to section 1653(f) of Title 49, Transportation, governing all programs and projects subject to the jurisdiction of the Secretary of Transportation.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–495 effective Aug. 23, 1968, see section 37 of Pub. L. 90–495, set out as a note under section 101 of this title.

CLARIFICATION OF EXISTING STANDARDS

Pub. L. 109–59, title VI, §6009(b), Aug. 10, 2005, 119 Stat. 1876, provided that:

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Aug. 10, 2005], the Secretary [of Transportation] shall (in consultation with affected agencies and interested parties) promulgate regulations that clarify the factors to be considered and the standards to be applied in determining the prudence and feasibility of alternatives under section 138 of title 23 and section 303 of title 49, United States Code.

''(2) REQUIREMENTS.—The regulations—

''(A) shall clarify the application of the legal standards to a variety of different types of transportation programs and projects depending on the circumstances of each case; and

''(B) may include, as appropriate, examples to facilitate clear and consistent interpretation by agency decisionmakers.''

STUDY OF TRANSIT NEEDS IN NATIONAL PARKS AND RELATED PUBLIC LANDS

Pub. L. 105–178, title III, § 3039, June 9, 1998, 112 Stat. 393, as amended by Pub. L. 105–206, title IX, § 9009(y), July 22, 1998, 112 Stat. 862, provided that:

''(a) PURPOSES.—The purposes of this section are to encourage and promote the development of transportation systems for the betterment of the national parks and other units of the National Park System, national wildlife refuges, recreational areas, and other public lands in order to conserve natural, historical, and cultural resources and prevent adverse impact, relieve congestion, minimize transportation fuel consumption, reduce pollution (including noise and visual pollution), and enhance visitor mobility and accessibility and the visitor experience.

''(b) STUDY.—

''(1) IN GENERAL.—The Secretary, in coordination with the Secretary of the Interior, shall undertake a comprehensive study of alternative transportation needs in national parks and related public lands managed by Federal land management agencies [to] assist in carrying out the purposes described in subsection (a). The study shall be submitted to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate not later than January 1, 2000.

''(2) STUDY ELEMENTS.—The study required by paragraph (1) shall—

''(A) identify transportation strategies that improve the management of the national parks and related public lands;

''(B) identify national parks and related public lands with existing and potential problems of adverse impact, high congestion, and pollution, or which can benefit from alternative transportation modes;

''(C) assess the feasibility of alternative transportation modes; and

''(D) identify and estimate the costs of alternative transportation modes for each of the national parks and related public lands referred to in paragraph (1).

''(3) DEFINITION.—For purposes of this subsection, the term 'Federal land management agencies' means the National Park Service, the United States Fish and Wildlife Service, and the Bureau of Land Management.''

STUDY OF ALTERNATIVE TRANSPORTATION MODES IN NATIONAL PARK SYSTEM

Pub. L. 102–240, title I, § 1050, Dec. 18, 1991, 105 Stat. 2000, provided that:

''(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act [Dec. 18, 1991], the Secretary, in consultation with the Secretary of the Interior, shall conduct and transmit to Congress a study of alternative transportation modes for use in the National Park System. In conducting such study, the Secretary shall consider (1) the economic and technical feasibility, environmental effects, projected costs and benefits as compared to the costs and benefits of existing transportation systems, and general suitability of transportation modes that would provide efficient and environmentally sound ingress to and egress from National Park lands; and (2) methods to obtain private capital for the construction of such transportation modes and related infrastructure.

''(b) FUNDING.—From sums authorized to be appropriated for park roads and parkways for fiscal year 1992, $300,000 shall be available to carry out this section.''

§ 139. Efficient environmental reviews for project decisionmaking

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) AGENCY.—The term ''agency'' means any agency, department, or other unit of Federal, State, local, or Indian tribal government.

(2) ENVIRONMENTAL IMPACT STATEMENT.—The term ''environmental impact statement'' means the detailed statement of environmental impacts required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) ENVIRONMENTAL REVIEW PROCESS.—

(A) IN GENERAL.—The term ''environmental review process'' means the process for preparing for a project an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) INCLUSIONS.—The term ''environmental review process'' includes the process for and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(4) LEAD AGENCY.—The term ''lead agency'' means the Department of Transportation and, if applicable, any State or local governmental entity serving as a joint lead agency pursuant to this section.

(5) MULTIMODAL PROJECT.—The term ''multimodal project'' means a project funded, in whole or in part, under this title or chapter 53 of title 49 and involving the participation of more than one Department of Transportation administration or agency.

(6) PROJECT.—The term ''project'' means any highway project, public transportation capital project, or multimodal project that requires the approval of the Secretary.

(7) PROJECT SPONSOR.—The term ''project sponsor'' means the agency or other entity, including any private or public-private entity, that seeks approval of the Secretary for a project.

(8) STATE TRANSPORTATION DEPARTMENT.—The term ''State transportation department'' means any statewide agency of a State with responsibility for one or more modes of transportation.

(b) APPLICABILITY.—

(1) IN GENERAL.—The project development procedures in this section are applicable to all projects for which an environmental impact statement is prepared under the National Environmental Policy Act of 1969 and may be applied, to the extent determined appropriate by the Secretary, to other projects for which an environmental document is prepared pursuant to such Act.

(2) FLEXIBILITY.—Any authorities granted in this section may be exercised for a project, class of projects, or program of projects.

(c) LEAD AGENCIES.—

(1) FEDERAL LEAD AGENCY.—The Department of Transportation shall be the Federal lead

agency in the environmental review process for a project.

(2) JOINT LEAD AGENCIES.—Nothing in this section precludes another agency from being a joint lead agency in accordance with regulations under the National Environmental Policy Act of 1969.

(3) PROJECT SPONSOR AS JOINT LEAD AGENCY.—Any project sponsor that is a State or local governmental entity receiving funds under this title or chapter 53 of title 49 for the project shall serve as a joint lead agency with the Department for purposes of preparing any environmental document under the National Environmental Policy Act of 1969 and may prepare any such environmental document required in support of any action or approval by the Secretary if the Federal lead agency furnishes guidance in such preparation and independently evaluates such document and the document is approved and adopted by the Secretary prior to the Secretary taking any subsequent action or making any approval based on such document, whether or not the Secretary's action or approval results in Federal funding.

(4) ENSURING COMPLIANCE.—The Secretary shall ensure that the project sponsor complies with all design and mitigation commitments made jointly by the Secretary and the project sponsor in any environmental document prepared by the project sponsor in accordance with this subsection and that such document is appropriately supplemented if project changes become necessary.

(5) ADOPTION AND USE OF DOCUMENTS.—Any environmental document prepared in accordance with this subsection may be adopted or used by any Federal agency making any approval to the same extent that such Federal agency could adopt or use a document prepared by another Federal agency.

(6) ROLES AND RESPONSIBILITY OF LEAD AGENCY.—With respect to the environmental review process for any project, the lead agency shall have authority and responsibility—

(A) to take such actions as are necessary and proper, within the authority of the lead agency, to facilitate the expeditious resolution of the environmental review process for the project; and

(B) to prepare or ensure that any required environmental impact statement or other document required to be completed under the National Environmental Policy Act of 1969 is completed in accordance with this section and applicable Federal law.

(d) PARTICIPATING AGENCIES.—

(1) IN GENERAL.—The lead agency shall be responsible for inviting and designating participating agencies in accordance with this subsection.

(2) INVITATION.—The lead agency shall identify, as early as practicable in the environmental review process for a project, any other Federal and non-Federal agencies that may have an interest in the project, and shall invite such agencies to become participating agencies in the environmental review process for the project. The invitation shall set a deadline for responses to be submitted. The deadline may be extended by the lead agency for good cause.

(3) FEDERAL PARTICIPATING AGENCIES.—Any Federal agency that is invited by the lead agency to participate in the environmental review process for a project shall be designated as a participating agency by the lead agency unless the invited agency informs the lead agency, in writing, by the deadline specified in the invitation that the invited agency—

(A) has no jurisdiction or authority with respect to the project;

(B) has no expertise or information relevant to the project; and

(C) does not intend to submit comments on the project.

(4) EFFECT OF DESIGNATION.—Designation as a participating agency under this subsection shall not imply that the participating agency—

(A) supports a proposed project; or

(B) has any jurisdiction over, or special expertise with respect to evaluation of, the project.

(5) COOPERATING AGENCY.—A participating agency may also be designated by a lead agency as a ''cooperating agency'' under the regulations contained in part 1500 of title 40, Code of Federal Regulations.

(6) DESIGNATIONS FOR CATEGORIES OF PROJECTS.—The Secretary may exercise the authorities granted under this subsection for a project, class of projects, or program of projects.

(7) CONCURRENT REVIEWS.—Each Federal agency shall, to the maximum extent practicable—

(A) carry out obligations of the Federal agency under other applicable law concurrently, and in conjunction, with the review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), unless doing so would impair the ability of the Federal agency to carry out those obligations; and

(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

(e) PROJECT INITIATION.—The project sponsor shall notify the Secretary of the type of work, termini, length and general location of the proposed project, together with a statement of any Federal approvals anticipated to be necessary for the proposed project, for the purpose of informing the Secretary that the environmental review process should be initiated.

(f) PURPOSE AND NEED.—

(1) PARTICIPATION.—As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in defining the purpose and need for a project.

(2) DEFINITION.—Following participation under paragraph (1), the lead agency shall define the project's purpose and need for purposes of any document which the lead agency is responsible for preparing for the project.

(3) OBJECTIVES.—The statement of purpose and need shall include a clear statement of the objectives that the proposed action is intended to achieve, which may include—

(A) achieving a transportation objective identified in an applicable statewide or metropolitan transportation plan;

(B) supporting land use, economic development, or growth objectives established in applicable Federal, State, local, or tribal plans; and

(C) serving national defense, national security, or other national objectives, as established in Federal laws, plans, or policies.

(4) ALTERNATIVES ANALYSIS.—

(A) PARTICIPATION.—As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in determining the range of alternatives to be considered for a project.

(B) RANGE OF ALTERNATIVES.—Following participation under paragraph (1), the lead agency shall determine the range of alternatives for consideration in any document which the lead agency is responsible for preparing for the project.

(C) METHODOLOGIES.—The lead agency also shall determine, in collaboration with participating agencies at appropriate times during the study process, the methodologies to be used and the level of detail required in the analysis of each alternative for a project.

(D) PREFERRED ALTERNATIVE.—At the discretion of the lead agency, the preferred alternative for a project, after being identified, may be developed to a higher level of detail than other alternatives in order to facilitate the development of mitigation measures or concurrent compliance with other applicable laws if the lead agency determines that the development of such higher level of detail will not prevent the lead agency from making an impartial decision as to whether to accept another alternative which is being considered in the environmental review process.

(g) COORDINATION AND SCHEDULING.—

(1) COORDINATION PLAN.—

(A) IN GENERAL.—The lead agency shall establish a plan for coordinating public and agency participation in and comment on the environmental review process for a project or category of projects. The coordination plan may be incorporated into a memorandum of understanding.

(B) SCHEDULE.—

(i) IN GENERAL.—The lead agency may establish as part of the coordination plan, after consultation with each participating agency for the project and with the State in which the project is located (and, if the State is not the project sponsor, with the project sponsor), a schedule for completion of the environmental review process for the project.

(ii) FACTORS FOR CONSIDERATION.—In establishing the schedule, the lead agency shall consider factors such as—

(I) the responsibilities of participating agencies under applicable laws;

(II) resources available to the cooperating agencies;

(III) overall size and complexity of the project;

(IV) the overall schedule for and cost of the project; and

(V) the sensitivity of the natural and historic resources that could be affected by the project.

(C) CONSISTENCY WITH OTHER TIME PERIODS.—A schedule under subparagraph (B) shall be consistent with any other relevant time periods established under Federal law.

(D) MODIFICATION.—The lead agency may—

(i) lengthen a schedule established under subparagraph (B) for good cause; and

(ii) shorten a schedule only with the concurrence of the affected cooperating agencies.

(E) DISSEMINATION.—A copy of a schedule under subparagraph (B), and of any modifications to the schedule, shall be—

(i) provided to all participating agencies and to the State transportation department of the State in which the project is located (and, if the State is not the project sponsor, to the project sponsor); and

(ii) made available to the public.

(2) COMMENT DEADLINES.—The lead agency shall establish the following deadlines for comment during the environmental review process for a project:

(A) For comments by agencies and the public on a draft environmental impact statement, a period of not more than 60 days after publication in the Federal Register of notice of the date of public availability of such document, unless—

(i) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or

(ii) the deadline is extended by the lead agency for good cause.

(B) For all other comment periods established by the lead agency for agency or public comments in the environmental review process, a period of no more than 30 days from availability of the materials on which comment is requested, unless—

(i) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or

(ii) the deadline is extended by the lead agency for good cause.

(3) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—In any case in which a decision under any Federal law relating to a project (including the issuance or denial of a permit or license) is required to be made by the later of the date that is 180 days after the date on which the Secretary made all final decisions of the lead agency with respect to the project, or 180 days after the date on which an application was submitted for the permit or license, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

(A) as soon as practicable after the 180-day period, an initial notice of the failure of the Federal agency to make the decision; and

(B) every 60 days thereafter until such date as all decisions of the Federal agency relating to the project have been made by the Federal agency, an additional notice that describes the number of decisions of the Federal agency that remain outstanding as of the date of the additional notice.

(4) INVOLVEMENT OF THE PUBLIC.—Nothing in this subsection shall reduce any time period provided for public comment in the environmental review process under existing Federal law, including a regulation.

(h) ISSUE IDENTIFICATION AND RESOLUTION.—

(1) COOPERATION.—The lead agency and the participating agencies shall work cooperatively in accordance with this section to identify and resolve issues that could delay completion of the environmental review process or could result in denial of any approvals required for the project under applicable laws.

(2) LEAD AGENCY RESPONSIBILITIES.—The lead agency shall make information available to the participating agencies as early as practicable in the environmental review process regarding the environmental and socioeconomic resources located within the project area and the general locations of the alternatives under consideration. Such information may be based on existing data sources, including geographic information systems mapping.

(3) PARTICIPATING AGENCY RESPONSIBILITIES.—Based on information received from the lead agency, participating agencies shall identify, as early as practicable, any issues of concern regarding the project's potential environmental or socioeconomic impacts. In this paragraph, issues of concern include any issues that could substantially delay or prevent an agency from granting a permit or other approval that is needed for the project.

(4) ISSUE RESOLUTION.—

(A) MEETING OF PARTICIPATING AGENCIES.—At any time upon request of a project sponsor or the Governor of a State in which the project is located, the lead agency shall promptly convene a meeting with the relevant participating agencies, the project sponsor, and the Governor (if the meeting was requested by the Governor) to resolve issues that could delay completion of the environmental review process or could result in denial of any approvals required for the project under applicable laws.

(B) NOTICE THAT RESOLUTION CANNOT BE ACHIEVED.—If a resolution cannot be achieved within 30 days following such a meeting and a determination by the lead agency that all information necessary to resolve the issue has been obtained, the lead agency shall notify the heads of all participating agencies, the project sponsor, the Governor, the Committee on Environment and Public Works of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Council on Environmental Quality, and shall publish such notification in the Federal Register.

(i) PERFORMANCE MEASUREMENT.—The Secretary shall establish a program to measure and report on progress toward improving and expediting the planning and environmental review process.

(j) ASSISTANCE TO AFFECTED STATE AND FEDERAL AGENCIES.—

(1) IN GENERAL.—For a project that is subject to the environmental review process established under this section and for which funds are made available to a State under this title or chapter 53 of title 49, the Secretary may approve a request by the State to provide funds so made available under this title or such chapter 53 to affected Federal agencies (including the Department of Transportation), State agencies, and Indian tribes participating in the environmental review process for the projects in that State or participating in a State process that has been approved by the Secretary for that State. Such funds may be provided only to support activities that directly and meaningfully contribute to expediting and improving transportation project planning and delivery for projects in that State.

(2) ACTIVITIES ELIGIBLE FOR FUNDING.—Activities for which funds may be provided under paragraph (1) include transportation planning activities that precede the initiation of the environmental review process, dedicated staffing, training of agency personnel, information gathering and mapping, and development of programmatic agreements.

(3) USE OF FEDERAL LANDS HIGHWAY FUNDS.—The Secretary may also use funds made available under section 204 for a project for the purposes specified in this subsection with respect to the environmental review process for the project.

(4) AMOUNTS.—Requests under paragraph (1) may be approved only for the additional amounts that the Secretary determines are necessary for the Federal agencies, State agencies, or Indian tribes participating in the environmental review process to meet the time limits for environmental review.

(5) CONDITION.—A request under paragraph (1) to expedite time limits for environmental review may be approved only if such time limits are less than the customary time necessary for such review.

(k) JUDICIAL REVIEW AND SAVINGS CLAUSE.—

(1) JUDICIAL REVIEW.—Except as set forth under subsection (*l*), nothing in this section shall affect the reviewability of any final Federal agency action in a court of the United States or in the court of any State.

(2) SAVINGS CLAUSE.—Nothing in this section shall be construed as superseding, amending, or modifying the National Environmental Policy Act of 1969 or any other Federal environmental statute or affect the responsibility of any Federal officer to comply with or enforce any such statute.

(3) LIMITATIONS.—Nothing in this section shall preempt or interfere with—

(A) any practice of seeking, considering, or responding to public comment; or

(B) any power, jurisdiction, responsibility, or authority that a Federal, State, or local

government agency, metropolitan planning organization, Indian tribe, or project sponsor has with respect to carrying out a project or any other provisions of law applicable to projects, plans, or programs.

(*l*) LIMITATIONS ON CLAIMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or approval issued by a Federal agency for a highway or public transportation capital project shall be barred unless it is filed within 180 days after publication of a notice in the Federal Register announcing that the permit, license, or approval is final pursuant to the law under which the agency action is taken, unless a shorter time is specified in the Federal law pursuant to which judicial review is allowed. Nothing in this subsection shall create a right to judicial review or place any limit on filing a claim that a person has violated the terms of a permit, license, or approval.

(2) NEW INFORMATION.—The Secretary shall consider new information received after the close of a comment period if the information satisfies the requirements for a supplemental environmental impact statement under section 771.130 of title 23, Code of Federal Regulations. The preparation of a supplemental environmental impact statement when required shall be considered a separate final agency action and the deadline for filing a claim for judicial review of such action shall be 180 days after the date of publication of a notice in the Federal Register announcing such action.

(Added Pub. L. 109–59, title VI, § 6002(a), Aug. 10, 2005, 119 Stat. 1857.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a)(2), (3), (b)(1), (c)(2), (3), (6)(B), (d)(7)(A), and (k)(2), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

CODIFICATION

Section 6002(a) of Pub. L. 109–59, which directed that this section be inserted after section 138 of subchapter I of chapter 1 of this title, was executed by adding this section after section 138 of chapter 1 of this title, to reflect the probable intent of Congress and the amendment by Pub. L. 109–59, § 1602(b)(6)(A), which struck out the subchapter I heading preceding section 101 of this title.

PRIOR PROVISIONS

A prior section 139, added Pub. L. 90–495, § 16(a), Aug. 23, 1968, 82 Stat. 823; amended Pub. L. 91–605, title I, §§ 106(b)(1), 140, Dec. 31, 1970, 84 Stat. 1716, 1736; Pub. L. 94–280, title I, § 125, May 5, 1976, 90 Stat. 440; Pub. L. 97–134, § 10, Dec. 29, 1981, 95 Stat. 1702; Pub. L. 97–424, title I, § 116(a)(3), Jan. 6, 1983, 96 Stat. 2109; Pub. L. 98–229, § 8(a), Mar. 9, 1984, 98 Stat. 56, related to additions to the Interstate System, prior to repeal by Pub. L. 105–178, title I, § 1106(c)(2)(A), June 9, 1998, 112 Stat. 136.

EXISTING ENVIRONMENTAL REVIEW PROCESS

Pub. L. 109–59, title VI, § 6002(b), Aug. 10, 2005, 119 Stat. 1865, provided that: ''Nothing in this section [enacting this section and repealing provisions set out as a note under section 109 of this title] affects any existing State environmental review process, program, agreement, or funding arrangement approved by the Secretary [of Transportation] under section 1309 of the Transportation Equity Act for the 21st Century [Pub. L. 105–178] (112 Stat. 232; 23 U.S.C. 109 note) as such section was in effect on the day preceding the date of enactment of the SAFETEA–LU [Aug. 10, 2005].''

§ 140. Nondiscrimination

(a) Prior to approving any programs for projects as provided for in section 135, the Secretary shall require assurances from any State desiring to avail itself of the benefits of this chapter that employment in connection with proposed projects will be provided without regard to race, color, creed, national origin, or sex. The Secretary shall require that each State shall include in the advertised specifications, notification of the specific equal employment opportunity responsibilities of the successful bidder. In approving programs for projects on any of the Federal-aid systems, the Secretary[1] if necessary to ensure equal employment opportunity, shall require certification by any State desiring to avail itself of the benefits of this chapter that there are in existence and available on a regional, statewide, or local basis, apprenticeship, skill improvement or other upgrading programs, registered with the Department of Labor or the appropriate State agency, if any, which provide equal opportunity for training and employment without regard to race, color, creed, national origin, or sex. In implementing such programs, a State may reserve training positions for persons who receive welfare assistance from such State; except that the implementation of any such program shall not cause current employees to be displaced or current positions to be supplanted or preclude workers that are participating in an apprenticeship, skill improvement, or other upgrading program registered with the Department of Labor or the appropriate State agency from being referred to, or hired on, projects funded under this title without regard to the length of time of their participation in such program. The Secretary shall periodically obtain from the Secretary of Labor and the respective State transportation departments information which will enable the Secretary to judge compliance with the requirements of this section and the Secretary of Labor shall render to the Secretary such assistance and information as the Secretary of Transportation shall deem necessary to carry out the equal employment opportunity program required hereunder.

(b) The Secretary, in cooperation with any other department or agency of the Government, State agency, authority, association, institution, Indian tribal government, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer surface transportation and technology training, including skill improvement programs, and to develop and fund summer transportation institutes. Whenever apportionments are made under section 104(b)(3) of this title, the Secretary shall deduct such sums as

[1] So in original. Probably should be followed by a comma.

necessary, not to exceed $10,000,000 per fiscal year, for the administration of this subsection. Such sums so deducted shall remain available until expended. The provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), shall not be applicable to contracts and agreements made under the authority herein granted to the Secretary. Notwithstanding any other provision of law, not to exceed ½ of 1 percent of funds apportioned to a State for the surface transportation program under section 104(b) and the bridge program under section 144 may be available to carry out this subsection upon request of the State transportation department to the Secretary.

(c) The Secretary, in cooperation with any other department or agency of the Government, State agency, authority, association, institution, Indian tribal government, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer training programs and assistance programs in connection with any program under this title in order that minority businesses may achieve proficiency to compete, on an equal basis, for contracts and subcontracts. Whenever apportionments are made under section 104(b)(3), the Secretary shall deduct such sums as necessary, not to exceed $10,000,000 per fiscal year, for the administration of this subsection. The provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), shall not be applicable to contracts and agreements made under the authority herein granted to the Secretary notwithstanding the provisions of section 302(e)[2] of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252(e)).

(d) INDIAN EMPLOYMENT.—Consistent with section 703(i) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2(i)), nothing in this section shall preclude the preferential employment of Indians living on or near a reservation on projects and contracts on Indian reservation roads. States may implement a preference for employment of Indians on projects carried out under this title near Indian reservations. The Secretary shall cooperate with Indian tribal governments and the States to implement this subsection.

(Added Pub. L. 90–495, §22(a), Aug. 23, 1968, 82 Stat. 826; amended Pub. L. 91–605, title I, §110, Dec. 31, 1970, 84 Stat. 1719; Pub. L. 93–87, title I, §120, Aug. 13, 1973, 87 Stat. 259; Pub. L. 94–280, title I, §126, May 5, 1976, 90 Stat. 440; Pub. L. 97–424, title I, §119, Jan. 6, 1983, 96 Stat. 2110; Pub. L. 100–17, title I, §122, Apr. 2, 1987, 101 Stat. 160; Pub. L. 102–240, title I, §1026, Dec. 18, 1991, 105 Stat. 1965; Pub. L. 102–388, title IV, §412, Oct. 6, 1992, 106 Stat. 1565; Pub. L. 105–178, title I, §§1208, 1212(a)(2)(A), June 9, 1998, 112 Stat. 186, 193; Pub. L. 109–59, title I, §1922, Aug. 10, 2005, 119 Stat. 1481.)

REFERENCES IN TEXT

Subsection (e) of section 302 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252(e)), referred to in subsec. (c), was struck out by section 2714(a)(1)(B) of Pub. L. 98–369 and restated in subsection (c)(1) of section 302 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252(c)(1)).

[2] See References in Text note below.

AMENDMENTS

2005—Subsec. (a). Pub. L. 109–59, §1922(a), in first sentence, substituted ''section 135'' for ''subsection (a) of section 105 of this title'', in second sentence, substituted ''The Secretary'' for ''He'', in third sentence, substituted ''if necessary to ensure'' for ''shall, where he considers it necessary to assure'' and inserted ''shall'' before ''require'', and, in last sentence, substituted ''the Secretary to'' for ''him to'' and ''the Secretary of Transportation'' for ''he''.

Subsec. (b). Pub. L. 109–59, §1922(b), in first sentence, substituted ''surface transportation'' for ''highway construction'' and, in second sentence, struck out ''he may deem'' before ''necessary'' and ''not to exceed $2,500,000 for the transition quarter ending September 30, 1976, and'' before ''not to exceed $10,000,000''.

Subsec. (c). Pub. L. 109–59, §1922(c), substituted ''section 104(b)(3)'' for ''subsection 104(b)(3) of this title'' and struck out ''he may deem'' before ''necessary''.

Subsec. (d). Pub. L. 109–59, §1922(d), struck out ''AND CONTRACTING'' after ''EMPLOYMENT'' in heading.

1998—Subsec. (a). Pub. L. 105–178, §§1208(a), 1212(a)(2)(A)(ii), inserted ''In implementing such programs, a State may reserve training positions for persons who receive welfare assistance from such State; except that the implementation of any such program shall not cause current employees to be displaced or current positions to be supplanted or preclude workers that are participating in an apprenticeship, skill improvement, or other upgrading program registered with the Department of Labor or the appropriate State agency from being referred to, or hired on, projects funded under this title without regard to the length of time of their participation in such program.'' after third sentence and substituted ''State transportation departments'' for ''State highway departments''.

Subsec. (b). Pub. L. 105–178, §§1208(b), 1212(a)(2)(A)(i), inserted ''and technology'' after ''highway construction'' and '', and to develop and fund summer transportation institutes'' after ''skill improvement programs'' and substituted ''section 104(b)(3)'' for ''section 104(b)'' and ''State transportation department'' for ''State highway department''.

Subsec. (c). Pub. L. 105–178, §1208(c), substituted ''104(b)(3)'' for ''104(a)''.

1992—Subsec. (b). Pub. L. 102–388 substituted ''½ of 1 percent'' for ''¼ of 1 percent'' in last sentence.

1991—Subsec. (b). Pub. L. 102–240, §1026(a), (b), inserted ''Indian tribal government,'' after ''institution,'' and inserted at end ''Notwithstanding any other provision of law, not to exceed ¼ of 1 percent of funds apportioned to a State for the surface transportation program under section 104(b) and the bridge program under section 144 may be available to carry out this subsection upon request of the State highway department to the Secretary.''

Subsec. (c). Pub. L. 102–240, §1026(b), inserted ''Indian tribal government,'' after ''institution,''.

Subsec. (d). Pub. L. 102–240, §1026(c), inserted after first sentence ''States may implement a preference for employment of Indians on projects carried out under this title near Indian reservations.''

1987—Subsec. (d). Pub. L. 100–17 added subsec. (d).

1983—Pub. L. 97–424, §119(c), substituted ''Nondiscrimination'' for ''Equal employment opportunity'' in section catchline.

Subsec. (a). Pub. L. 97–424, §119(a), substituted '', national origin, or sex'' for ''or national origin'' after ''color, creed'', in two places.

Subsec. (c). Pub. L. 97–424, §119(b), added subsec. (c).

1976—Subsec. (b). Pub. L. 94–280 substituted second sentence ''Whenever apportionments are made under section 104(b) of this title, the Secretary shall deduct such sums as he may deem necessary, not to exceed $2,500,000 for the transition quarter ending September 30, 1976, and not to exceed $10,000,000 per fiscal year, for the administration of this subsection.'' for ''Whenever an apportionment is made under subsections 104(b)(1), (b)(2), (b)(3), (b)(5), and (b)(6) of this title of the sums

authorized to be appropriated for expenditure upon the Federal-aid primary and secondary systems, and their extensions within urban areas, the Interstate System, and the Federal-aid urban system for the fiscal years 1972, 1973, 1974, 1975, and 1976, the Secretary shall deduct such sums as he may deem necessary not to exceed $5,000,000 per fiscal year for the fiscal years 1972 and 1973, and $10,000,000 per fiscal year for the fiscal years 1974, 1975 and 1976, for administering the provisions of this subsection to be financed from the appropriation for the Federal-aid systems.''

1973—Subsec. (b). Pub. L. 93–87 included apportionment of appropriated moneys for administration of subsec. (b) provisions for fiscal years 1974, 1975, and 1976, and substituted provisions which made available for such administration $5,000,000 per fiscal year for fiscal years 1972, and 1973, and $10,000,000 per fiscal year for fiscal years 1974, 1975, and 1976, for prior provision making available $5,000,000 per fiscal year for such administration.

1970—Pub. L. 91–605 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

EFFECTIVE DATE

Section effective Aug. 23, 1968, see section 37 of Pub. L. 90–495, set out as an Effective Date of 1968 Amendment note under section 101 of this title.

§ 141. Enforcement of requirements

(a) Each State shall certify to the Secretary before January 1 of each year that it is enforcing all State laws respecting maximum vehicle size and weights permitted on the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system, including the Interstate System in accordance with section 127 of this title. Each State shall also certify that it is enforcing and complying with the provisions of section 127(d) of this title and section 31112 of title 49.

(b)(1) Each State shall submit to the Secretary such information as the Secretary shall, by regulation, require as necessary, in his opinion, to verify the certification of such State under subsection (b) of this section.

(2) If a State fails to certify as required by subsection (b) of this section or if the Secretary determines that a State is not adequately enforcing all State laws respecting such maximum vehicle size and weights, notwithstanding such a certification, then Federal-aid highway funds apportioned to such State for such fiscal year shall be reduced by amounts equal to 10 per centum of the amount which would otherwise be apportioned to such State under section 104 of this title.

(3) If within one year from the date that the apportionment for any State is reduced in accordance with paragraph (2) of this subsection the Secretary determines that such State is enforcing all State laws respecting maximum size and weights, the apportionment of such State shall be increased by an amount equal to such reduction. If the Secretary does not make such a determination within such one-year period, the amounts so withheld shall be reapportioned to all other eligible States.

(c) The Secretary shall reduce the State's apportionment of Federal-aid highway funds under section 104(b)(4) in an amount up to 25 per centum of the amount to be apportioned in any fiscal year beginning after September 30, 1984, during which heavy vehicles, subject to the use tax imposed by section 4481 of the Internal Revenue Code of 1986, may be lawfully registered in the State without having presented proof of payment, in such form as may be prescribed by the Secretary of the Treasury, of the use tax imposed by section 4481 of such Code. Amounts withheld from apportionment to a State under this subsection shall be apportioned to the other States pursuant to the formulas of section 104(b)(4) and shall be available in the same manner and to the same extent as other Interstate funds apportioned at the same time to other States.

(Added Pub. L. 93–643, § 107(a), Jan. 4, 1975, 88 Stat. 2284; amended Pub. L. 95–599, title I, § 123(d), Nov. 6, 1978, 92 Stat. 2702; Pub. L. 97–424, title I, § 143, Jan. 6, 1983, 96 Stat. 2129; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 102–240, title I, § 1023(c), Dec. 18, 1991, 105 Stat. 1954; Pub. L. 103–429, § 3(7), Oct. 31, 1994, 108 Stat. 4378; Pub. L. 104–59, title II, § 205(d)(1)(A), Nov. 28, 1995, 109 Stat. 577; Pub. L. 105–178, title I, § 1103(*l*)(3)(C), June 9, 1998, 112 Stat. 126.)

REFERENCES IN TEXT

Section 4481 of the Internal Revenue Code of 1986, referred to in subsec. (c), is classified to section 4481 of Title 26, Internal Revenue Code.

PRIOR PROVISIONS

A prior section 141, Pub. L. 90–495, § 35(a), Aug. 23, 1968, 82 Stat. 836, related to real property acquisition policies, prior to repeal by Pub. L. 91–646, title III, § 306, Jan. 2, 1971, 84 Stat. 1907, such repeal becoming effective as to all States after July 1, 1972, the date on which sections 4630 and 4655 of Title 42, The Public Health and Welfare, covering similar subject matter, became applicable to all States.

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–178 substituted ''section 104(b)(4)'' for ''section 104(b)(5) of this title'' in two places.

1995—Pub. L. 104–59 redesignated subsecs. (b) to (d) as (a) to (c), respectively, and struck out former subsec. (a) which read as follows: ''Each State shall certify to the Secretary before January 1 of each year that it is enforcing all speed limits on public highways in accordance with section 154 of this title. The Secretary shall not approve any project under section 106 of this title in any State which has failed to certify in accordance with this subsection.''

1994—Subsec. (b). Pub. L. 103–429 substituted ''section 31112 of title 49'' for ''section 411(j) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311(j))''.

1991—Subsec. (b). Pub. L. 102–240 inserted at end ''Each State shall also certify that it is enforcing and complying with the provisions of section 127(d) of this title and section 411(j) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311(j)).''

1986—Subsec. (d). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

1983—Subsec. (d). Pub. L. 97–424 added subsec. (d).

1978—Pub. L. 95–599 designated existing provisions as subsecs. (a) and (b) and added subsec. (c).

EFFECTIVE DATE OF 1995 AMENDMENT

Section 205(d)(3) of Pub. L. 104–59 provided that: ''The amendments made by paragraph (1) [amending this section and repealing section 154 of this title] shall be applicable to a State on the 10th day following the date of the enactment of this Act [Nov. 28, 1995]; except that if the legislature of a State is not in session on such date of enactment and the chief executive officer of the State declares, before such 10th day, that the legislature is not in session and that the State prefers an applicability date for such amendments that is after the date on which the legislature will convene, such amendments shall be applicable to the State on the 60th day following the date on which the legislature next convenes.''

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 123(e) of Pub. L. 95–599 provided that subsec. (c)(2) and (3) of this section be applicable to certifications required by this section to be filed on or after Jan. 1, 1980, prior to repeal by Pub. L. 96–106, § 12, Nov. 9, 1979, 93 Stat. 798.

ENFORCEMENT OF VEHICLE WEIGHT LIMITATIONS

Section 123(a)–(c) of Pub. L. 95–599, as amended by Pub. L. 100–17, title I, § 133(c)(4), Apr. 2, 1987, 101 Stat. 173, provided that:

''(a) Not later than the one-hundred-eightieth day after the date of enactment of this section [Nov. 6, 1978], the Secretary of Transportation, hereunder referred to as the 'Secretary', in consultation with each State shall inventory the existing system of penalties for violations of vehicle weight laws, rules, and regulations on any portion of any Federal-aid system in such State. Each State shall annually thereafter report to the Secretary its current inventory.

''(b)(1) Not later than the one-hundred-eightieth day after the date of enactment of this section [Nov. 6, 1978], the Secretary, in consultation with each State, shall inventory the existing system in such State for the issuance of special permits. Each State shall annually thereafter report to the Secretary its current inventory.

''(2) For purposes of this subsection, the term 'special permit' means a license or permit issued pursuant to State law, rule, or regulation which authorizes a vehicle to exceed the weight limitation for such vehicle established under State law, rule, or regulation.

''(c) Not later than January 1 of the second calendar year which begins after the date of enactment of this section [Nov. 6, 1978] and each calendar year thereafter the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation [now Committee on Transportation and Infrastructure] of the House of Representatives an annual report together with such recommendations as the Secretary deems necessary on (1) the latest annual inventory of State systems of penalties required by subsection (a) of this section; (2) the latest annual inventory of State systems for the issuance of special permits required by subsection (b) of this section; (3) the annual certification submitted by each State required by section 141(b) of title 23, United States Code.''

[For termination, effective May 15, 2000, of reporting provisions in section 123(c) of Pub. L. 95–599, set out above, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 135 of House Document No. 103–7.]

§ 142. Public transportation

(a)(1) To encourage the development, improvement, and use of public mass transportation systems operating motor vehicles (other than on rail) on Federal-aid highways for the transportation of passengers (hereafter in this section referred to as ''buses''), so as to increase the traffic capacity of the Federal-aid systems for the movement of persons, the Secretary may approve as a project on any Federal-aid system the construction of exclusive or preferential high occupancy vehicle lanes, highway traffic control devices, bus passenger loading areas and facilities (including shelters), and fringe and transportation corridor parking facilities to serve high occupancy vehicle and public mass transportation passengers, and sums apportioned under section 104(b) of this title shall be available to finance the cost of projects under this paragraph. If fees are charged for the use of any parking facility constructed under this section, the rate thereof shall not be in excess of that required for maintenance and operation of the facility and the cost of providing shuttle service to and from the facility (including compensation to any person for operating the facility and for providing such shuttle service).

(2) In addition to the projects under paragraph (1), the Secretary may approve as a project on the the[1] surface transportation program for payment from sums apportioned under section 104(b)(3) for carrying out any capital transit project eligible for assistance under chapter 53 of title 49, capital improvement to provide access and coordination between intercity and rural bus service, and construction of facilities to provide connections between highway transportation and other modes of transportation.

(b) Sums apportioned in accordance with section 104(b)(4) shall be available to finance the Federal share of projects for exclusive or preferential high occupancy vehicle, truck, and emergency vehicle routes or lanes. Routes constructed under this subsection shall not be subject to the third sentence of section 109(b) of this title.

(c) ACCOMMODATION OF OTHER MODES OF TRANSPORTATION.—The Secretary may approve as a project on any Federal-aid system for payment from sums apportioned under section 104(b) modifications to existing highway facilities on such system necessary to accommodate other modes of transportation if such modifications will not adversely affect automotive safety.

(d) METROPOLITAN PLANNING.—Any project carried out under this section in an urbanized area shall be subject to the metropolitan planning requirements of section 134.

(e)(1) For all purposes of this title, a project authorized by subsection (a)(1) of this section shall be deemed to be a highway project.

(2) Notwithstanding section 209(f)(1) of the Highway Revenue Act of 1956, the Highway Trust Fund shall be available for making expenditures to meet obligations resulting from projects authorized by subsection (a)(2) of this section and such projects shall be subject to,

[1] So in original.

and governed in accordance with, all provisions of this title applicable to projects on the surface transportation program, except to the extent determined inconsistent by the Secretary.

(3) The Federal share payable on account of projects authorized by subsection (a) of this section shall be that provided in section 120 of this title.

(f) AVAILABILITY OF RIGHTS-OF-WAY.—In any case where sufficient land or air space exits[2] within the publicly acquired rights-of-way of any highway, constructed in whole or in part with Federal-aid highway funds, to accommodate needed passenger, commuter, or high speed rail, magnetic levitation systems, and highway and nonhighway public mass transit facilities, the Secretary shall authorize a State to make such lands, air space, and rights-of-way available with or without charge to a publicly or privately owned authority or company or any other person for such purposes if such accommodation will not adversely affect automotive safety.

(g) The provision of assistance under subsection (a)(2) shall not be construed as bringing within the application of chapter 15 of title 5, United States Code, any non-supervisory employee of an urban mass transportation system (or of any other agency or entity performing related functions) to whom such chapter is otherwise inapplicable.

(h) Funds available for expenditure to carry out the purposes of subsection (a)(2) of this section shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to chapter 53 of title 49.

(i) The provisions of section 5323(a)(1)(D)[3] of title 49 shall apply in carrying out subsection (a)(2) of this section.

(Added Pub. L. 91–605, title I, § 111(a), Dec. 31, 1970, 84 Stat. 1719; amended Pub. L. 93–87, title I, § 121(a), Aug. 13, 1973, 87 Stat. 259; Pub. L. 94–280, title I, § 127, May 5, 1976, 90 Stat. 440; Pub. L. 97–424, title I, § 120, Jan. 6, 1983, 96 Stat. 2111; Pub. L. 102–240, title I, § 1027(a)–(e), title III, § 3003(b), Dec. 18, 1991, 105 Stat. 1966, 2088; Pub. L. 103–272, § 5(f)(2), July 5, 1994, 108 Stat. 1374; Pub. L. 103–429, § 7(a)(4)(C), Oct. 31, 1994, 108 Stat. 4389; Pub. L. 105–178, title I, § 1103(*l*)(3)(D), (4), June 9, 1998, 112 Stat. 126.)

REFERENCES IN TEXT

Section 209(f)(1) of the Highway Revenue Act of 1956, referred to in subsec. (e)(2), is set out as a note under section 120 of this title.

Section 5323(a)(1)(D) of title 49, referred to in subsec. (i), was omitted in the general amendment of section 5323(a)(1) of Title 49, Transportation, by Pub. L. 109–59, Title III, § 3023(a)(1), Aug. 10, 2005, 119 Stat. 1615.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–178, § 1103(*l*)(4), substituted ''section 104(b)(4)'' for ''paragraph (5) of subsection (b) of section 104 of this title''.

Subsec. (c). Pub. L. 105–178, § 1103(*l*)(3)(D), struck out ''(other than section 104(b)(5)(A))'' after ''section 104(b)''.

1994—Subsec. (a)(2). Pub. L. 103–272, § 5(f)(2)(A), substituted ''chapter 53 of title 49'' for ''the Federal Transit Act''.

Subsec. (h). Pub. L. 103–272, § 5(f)(2)(B), as amended by Pub. L. 103–429, § 7(a)(4)(C), substituted ''chapter 53 of title 49'' for ''the Federal Transit Act, as amended''.

Subsec. (i). Pub. L. 103–272, § 5(f)(2)(C), as amended by Pub. L. 103–429, § 7(a)(4)(C), substituted ''section 5323(a)(1)(D) of title 49'' for ''section 3(e)(4) of the Federal Transit Act, as amended,''.

1991—Subsec. (a)(2). Pub. L. 102–240, § 1027(a), struck out '', beginning with the fiscal year ending June 30, 1975,'' after ''the Secretary may'', substituted ''the surface transportation program'' for ''Federal-aid urban system,'' and substituted ''104(b)(3) for carrying out any capital transit project eligible for assistance under the Federal Transit Act, capital improvement to provide access and coordination between intercity and rural bus service, and construction of facilities to provide connections between highway transportation and other modes of transportation.'' for ''104(b)(6) of this title, the purchase of buses, and, beginning with the fiscal year ending June 30, 1976, approve as a project on the Federal-aid urban system, for payment from sums apportioned under section 104(b)(6) of this title, the construction, reconstruction, and improvement of fixed rail facilities, including the purchase of rolling stock for fixed rail, except that not more than $200,000,000 of all sums apportioned for the fiscal year ending June 30, 1975, under section 104(b)(6) shall be available for the payment of the Federal share of projects for the purchase of buses.''

Subsec. (c). Pub. L. 102–240, § 1027(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''Whenever responsible local officials of an urbanized area notify the State highway department that, in lieu of a highway project the Federal share of which is to be paid from funds apportioned under section 104(b)(6) of this title for the fiscal years ending June 30, 1974, and June 30, 1975, their needs require a nonhighway public mass transit project involving the construction of fixed rail facilities, or the purchase of passenger equipment, including rolling stock for any mode of mass transit, or both, and the State highway department determines that such public mass transit project is in accordance with the planning process under section 134 of this title and is entitled to priority under such planning process, such public mass transit project shall be submitted for approval to the Secretary. Approval of the plans, specifications, and estimates for such project by the Secretary shall be deemed a contractual obligation of the United States for payment out of the general funds of its proportional share of the cost of such project in an amount equal to the Federal share which would have been paid if such project were a highway project under section 120(a) of this title. Funds previously apportioned to such State under section 104(b)(6) of this title shall be reduced by an amount equal to such Federal share.''

Subsec. (d). Pub. L. 102–240, § 1027(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''The establishment of routes and schedules of such public mass transportation systems in urbanized areas shall be based upon a continuing comprehensive transportation planning process carried on in accordance with section 134 of this title.''

Subsec. (e)(2). Pub. L. 102–240, § 1027(e)(1), substituted ''surface transportation program'' for ''Federal-aid urban system''.

Subsec. (f). Pub. L. 102–240, § 1027(e)(2), (3), redesignated subsec. (g) as (f) and struck out former subsec. (f) which read as follows: ''No project authorized by this section shall be approved unless the Secretary of Transportation has received assurances satisfactory to him from the State that high occupancy vehicles will fully utilize the proposed project.''

Subsec. (g). Pub. L. 102–240, § 1027(e)(3), (4), redesignated subsec. (h) as (g) and struck out ''or subsection (c) of this section'' after ''(a)(2)''. Former subsec. (g) redesignated (f).

Pub. L. 102–240, § 1027(d), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: ''In any case where sufficient land exists within the

[2] So in original. Probably should be ''exists''.

[3] See References in Text note below.

publicly acquired rights-of-way of any Federal-aid highway to accommodate needed rail or non-highway public mass transit facilities and where this can be accomplished without impairing automotive safety or future highway improvements, the Administrator may authorize a State to make such lands and rights-of-way available without charge to a publicly owned mass transit authority for such purposes wherever he may deem that the public interest will be served thereby.''

Subsec. (h). Pub. L. 102–240, §3003(b), substituted ''Federal Transit Act'' for ''Urban Mass Transportation Act of 1964''.

Pub. L. 102–240, §1027(e)(3), (5), redesignated subsec. (i) as (h) and struck out ''and subsection (c)'' after ''(a)(2)''. Former subsec. (h) redesignated (g).

Subsec. (i). Pub. L. 102–240, §3003(b), substituted ''Federal Transit Act'' for ''Urban Mass Transportation Act of 1964''.

Pub. L. 102–240, §1027(e)(3), (5), redesignated subsec. (j) as (i) and struck out ''and subsection (c)'' after ''(a)(2)''. Former subsec. (i) redesignated (h).

Subsec. (j). Pub. L. 102–240, §1027(e)(3), redesignated subsec. (j) as (i).

Subsec. (k). Pub. L. 102–240, §1027(e)(2), struck out subsec. (k) which read as follows: ''The Secretary shall not approve any project under subsection (a)(2) of this section in any fiscal year when there has been enacted an Urban Transportation Trust Fund or similar assured funding for both highway and public transportation.''

1983—Subsec. (a)(1). Pub. L. 97–424, §120(a), inserted ''and the cost of providing shuttle service to and from the facility'' after ''of the facility'', and ''and for providing such shuttle service'' after ''operating the facility''.

Pub. L. 97–424, §120(b)(1), substituted ''high occupancy vehicle lanes'' for ''bus lanes'' after ''preferential'', and ''high occupancy vehicle and'' for ''bus and other'' after ''facilities to serve''.

Subsec. (b). Pub. L. 97–424, §120(b)(2), substituted ''high occupancy vehicle'' for ''bus'' after ''preferential''.

Subsec. (f). Pub. L. 97–424, §120(b)(3), substituted ''high occupancy vehicles'' for ''public mass transportation systems''.

1976—Subsec. (a)(1). Pub. L. 94–280, §127(a), inserted provision that if fees are charged for the use of any parking facility constructed under this section, the rate thereof shall not be in excess of that required for maintenance and operation of the facility (including compensation to any person for operating the facility).

Subsec. (e)(3). Pub. L. 94–280, §127(b), substituted ''section 120 of this title'' for ''section 120 of this section''.

1973—Subsec. (a). Pub. L. 93–87 designated existing provisions as par. (1), substituted ''operating motor vehicles (other than on rail) on Federal-aid highways'' for ''operating motor vehicles on highways, other than on rails'', struck out ''within urbanized areas'' after ''(''buses')'', inserted ''for the movement of persons'' after ''Federal-aid systems'', and substituted provisions respecting availability of sums apportioned under section 104(b) of this title for prior provisions for such sums apportioned in accordance with pars. (3), (5), and (6) of section 104(b) of this title, and added par. (2).

Subsec. (b). Pub. L. 93–87 added subsec. (b). Former subsec. (b) redesignated (d).

Subsec. (c). Pub. L. 93–87 added subsec. (c). Former subsec. (c) incorporated in subsec. (e)(1), (3) of this section.

Subsec. (d). Pub. L. 93–87 redesignated former subsec. (b) as (d), inserted ''in urbanized areas'' after ''transportation systems'', and struck out former subsec. (d) provisions which prohibited any project authorized by this section, other than a project for fringe or transportation parking facilities, from being approved unless the project would avoid the construction of a highway project which increases automobile traffic capacity, would provide a capacity for the movement of persons at least equal to that which would be provided by the avoided highway project, and would not exceed in the amount of the Federal share, the Federal share of the cost of the avoided highway project; or no other feasible or prudent highway project could provide the additional capacity for the movement of persons by motor vehicles on highways (other than on rails) provided by this project.

Subsec. (e). Pub. L. 93–87 incorporated provisions of former subsec. (c) in pars. (1) and (3) and added par. (2). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 93–87 redesignated former subsec. (e) as (f) and substituted ''will fully utilize'' for ''will have adequate capability to fully utilize''.

Subsecs. (g) to (k). Pub. L. 93–87 added subsecs. (g) to (k).

EFFECTIVE DATE OF 1994 AMENDMENT

Section 7(a) of Pub. L. 103–429 provided in part that the amendment made by that section is effective July 5, 1994.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 1027 of Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

RURAL HIGHWAY TRANSPORTATION DEMONSTRATION PROGRAM; APPROPRIATIONS AUTHORIZATION; PUBLIC NOTICE AND HEARING

Section 147 of Pub. L. 93–87, as amended by Pub. L. 93–643, §103, Jan. 4, 1975, 88 Stat. 2282; Pub. L. 94–280, title I, §129, May 5, 1976, 90 Stat. 440; Pub. L. 95–599, title I, §132, Nov. 6, 1978, 92 Stat. 2708, provided for authorization of appropriations of $15,000,000 for the fiscal year ending June 30, 1975, and $60,000,000 for the fiscal year ending June 30, 1976, to carry out demonstration projects for public mass transportation projects in rural and small urban areas, authorized availability of such sums for a period of two years after the close of the fiscal year for which authorized, and required public notice and hearing for such projects.

TRANSPORTATION FOR ELDERLY AND HANDICAPPED PERSONS

Pub. L. 93–643, §105(a), Jan. 4, 1975, 88 Stat. 2282, provided that: ''It is hereby declared to be the national policy that elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services; that special efforts shall be made in the planning, design, construction, and operation of mass transportation facilities and services so that the availability to elderly and handicapped persons of mass transportation which they can effectively utilize will be assured; and that all Federal programs offering assistance for mass transportation (including the programs under title 23, United States Code, the Federal-Aid Highway Act of 1973, and this Act [see Short Title of 1973 Amendment note under 101 of this title]) effectively implement this policy.''

BUS AND OTHER PROJECT STANDARDS

Section 165 of Pub. L. 93–87, as amended by Pub. L. 93–643, §105(b), Jan. 4, 1975, 88 Stat. 2283, provided that:

''(a) The Secretary of Transportation shall require that buses acquired with Federal financial assistance under (1) subsection (a) or (c) of section 142 of title 23, United States Code, (2) paragraph (4) of subsection (e) of section 103, title 23, United States Code, or (3) section 147 of the Federal-aid Highway Act of 1973 [set out as a note under this section] meet the standards prescribed by the Administrator of the Environmental Protection Agency under section 202 of the Clean Air Act [section 7521 of Title 42, The Public Health and Welfare], and under section 6 of the Noise Control Act of 1972 [section 4905 of Title 42], and shall authorize the acquisition, wherever practicable, of buses which meet

the special criteria for low-emission vehicles set forth in section 212 of the Clean Air Act [section 7546 of Title 42], and for low-noise-emission products set forth in section 15 of the Noise Control Act of 1972 [section 4914 of Title 42].

''(b) The Secretary of Transportation shall require that projects receiving Federal financial assistance under (1) subsection (a) or (c) of section 142 of title 23, United States Code, (2) paragraph (4) of subsection (e) of section 103, title 23, United States Code, or (3) section 147 of the Federal-Aid Highway Act of 1973 [set out as a note above] shall be planned, designed, constructed, and operated to allow effective utilization by elderly or handicapped persons who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, including those who are nonambulatory wheelchair-bound and those with semiambulatory capabilities, are unable without special facilities or special planning or design to utilize such facilities and services effectively. The Secretary shall not approve any program or project to which this section applies which does not comply with the provisions of this subsection requiring access to public mass transportation facilities, equipment, and services for elderly or handicapped persons.''

§ 143. Highway use tax evasion projects

(a) STATE DEFINED.—In this section, the term ''State'' means the 50 States and the District of Columbia.

(b) PROJECTS.—

(1) IN GENERAL.—The Secretary shall carry out highway use tax evasion projects in accordance with this subsection.

(2) ALLOCATION OF FUNDS.—Funds made available to carry out this section may be allocated to the Internal Revenue Service and the States at the discretion of the Secretary; except that of funds so made available for each of fiscal years 2005 through 2009, $2,000,000 shall be available only to carry out intergovernmental enforcement efforts, including research and training.

(3) CONDITIONS ON FUNDS ALLOCATED TO INTERNAL REVENUE SERVICE.—Except as otherwise provided in this section, the Secretary shall not impose any condition on the use of funds allocated to the Internal Revenue Service under this subsection.

(4) LIMITATION ON USE OF FUNDS.—Funds made available to carry out this section shall be used only—

(A) to expand efforts to enhance motor fuel tax enforcement;

(B) to fund additional Internal Revenue Service staff, but only to carry out functions described in this paragraph;

(C) to supplement motor fuel tax examinations and criminal investigations;

(D) to develop automated data processing tools to monitor motor fuel production and sales;

(E) to evaluate and implement registration and reporting requirements for motor fuel taxpayers;

(F) to reimburse State expenses that supplement existing fuel tax compliance efforts;

(G) to analyze and implement programs to reduce tax evasion associated with other highway use taxes;

(H) to support efforts between States and Indian tribes to address issues relating to State motor fuel taxes; and

(I) to analyze and implement programs to reduce tax evasion associated with foreign imported fuel.

(5) MAINTENANCE OF EFFORT.—The Secretary may not make an allocation to a State under this subsection for a fiscal year unless the State certifies that the aggregate expenditure of funds of the State, exclusive of Federal funds, for motor fuel tax enforcement activities will be maintained at a level that does not fall below the average level of such expenditure for the preceding 2 fiscal years of the State.

(6) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be 100 percent.

(7) PERIOD OF AVAILABILITY.—Funds authorized to carry out this section shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

(8) USE OF SURFACE TRANSPORTATION PROGRAM FUNDING.—In addition to funds made available to carry out this section, a State may expend up to ¼ of 1 percent of the funds apportioned to the State for a fiscal year under section 104(b)(3) on initiatives to halt the evasion of payment of motor fuel taxes.

(9) REPORTS.—The Commissioner of the Internal Revenue Service and each State shall submit to the Secretary an annual report that describes the projects, examinations, and criminal investigations funded by and carried out under this section. Such report shall specify the estimated annual yield from such projects, examinations, and criminal investigations.

(c) EXCISE TAX FUEL REPORTING.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of the SAFETEA–LU, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of—

(A) the additional development of capabilities needed to support new reporting requirements and databases established under such Act and the American Jobs Creation Act of 2004 (Public Law 108–357), and such other reporting requirements and database development as may be determined by the Secretary, in consultation with the Commissioner of the Internal Revenue Service, to be useful in the enforcement of fuel excise taxes, including provisions recommended by the Fuel Tax Enforcement Advisory Committee,

(B) the completion of requirements needed for the electronic reporting of fuel transactions from carriers and terminal operators,

(C) the operation and maintenance of an excise summary terminal activity reporting system and other systems used to provide strategic analyses of domestic and foreign motor fuel distribution trends and patterns,

(D) the collection, analysis, and sharing of information on fuel distribution and compliance or noncompliance with fuel taxes, and

(E) the development, completion, operation, and maintenance of an electronic

claims filing system and database and an electronic database of heavy vehicle highway use payments.

(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding shall provide that—

(A) the Internal Revenue Service shall develop and maintain any system under paragraph (1) through contracts,

(B) any system under paragraph (1) shall be under the control of the Internal Revenue Service, and

(C) any system under paragraph (1) shall be made available for use by appropriate State and Federal revenue, tax, and law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

(3) FUNDING.—Of the amounts made available to carry out this section for each of fiscal years 2005 through 2009, the Secretary shall make available to the Internal Revenue Service such funds as may be necessary to complete, operate, and maintain the systems under paragraph (1) in accordance with this subsection.

(4) REPORTS.—Not later than September 30 of each year, the Commissioner of the Internal Revenue Service shall provide reports to the Secretary on the status of the Internal Revenue Service projects funded under this subsection.

(Added Pub. L. 91–605, title I, §127(a), Dec. 31, 1970, 84 Stat. 1729; amended Pub. L. 93–87, title I, §122, Aug. 13, 1973, 87 Stat. 261; Pub. L. 105–178, title I, §1114(a), (c), June 9, 1998, 112 Stat. 152; Pub. L. 105–206, title IX, §9002(h), July 22, 1998, 112 Stat. 836; Pub. L. 109–59, title I, §1115(a), (b), Aug. 10, 2005, 119 Stat. 1175, 1176.)

REFERENCES IN TEXT

The SAFETEA–LU, referred to in subsec. (c)(1), is Pub. L. 109–59, Aug. 10, 2005, 119 Stat. 1144, also known as the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. For complete classification of this Act to the Code, see Short Title of 2005 Amendments note set out under section 101 of this title and Tables.

The American Jobs Creation Act of 2004, referred to in subsec. (c)(1)(A), is Pub. L. 108–357, Oct. 22, 2004, 118 Stat. 1418, as amended. For complete classification of this Act to the Code, see Short Title of 2004 Amendments note set out under section 1 of Title 26, Internal Revenue Code, and Tables.

Section 6103 of the Internal Revenue Code of 1986, referred to in subsec. (c)(2)(C), is classified to section 6103 of Title 26, Internal Revenue Code.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 102–240, title I, §1040, Dec. 18, 1991, 105 Stat. 1992, as amended, which was set out as a note under section 101 of this title, prior to repeal by Pub. L. 105–178, §1114(b)(2).

AMENDMENTS

2005—Subsec. (b)(2). Pub. L. 109–59, §1115(a)(1), inserted before period at end "; except that of funds so made available for each of fiscal years 2005 through 2009, $2,000,000 shall be available only to carry out intergovernmental enforcement efforts, including research and training".

Subsec. (b)(3). Pub. L. 109–59, §1115(a)(2), substituted "Except as otherwise provided in this section, the" for "The".

Subsec. (b)(4)(H), (I). Pub. L. 109–59, §1115(a)(3), added subpars. (H) and (I).

Subsec. (b)(9). Pub. L. 109–59, §1115(a)(4), added par. (9).

Subsec. (c). Pub. L. 109–59, §1115(b), amended heading and text of subsec. (c) generally, substituting provisions relating to memorandum of understanding to be entered into by the Secretary with the Commissioner of the Internal Revenue Service not later than 90 days after the date of enactment of the SAFETEA–LU for provisions relating to memorandum of understanding to be entered into by the Secretary with the Commissioner of the Internal Revenue Service not later than August 1, 1998.

1998—Pub. L. 105–178 amended section catchline and text generally, substituting provisions relating to highway use tax evasion projects for provisions relating to economic growth center development highways.

Subsec. (c)(1). Pub. L. 105–178, §1114(c)(1), as added by Pub. L. 105–206, §9002(h), substituted "August 1" for "April 1".

Subsec. (c)(3). Pub. L. 105–178, §1114(c)(2), (3), as added by Pub. L. 105–206, §9002(h), in heading inserted "priority" after "Funding" and in text inserted "and prior to funding any other activity under this section," after "2003,".

1973—Subsec. (a). Pub. L. 93–87, §122(a), (c), substituted "projects" for "demonstration projects" and "a Federal-aid system (other than the Interstate System)" for "the Federal-aid primary system" and deleted "to demonstrate the role that highways can play" before "to promote".

Subsec. (b). Pub. L. 93–87, §122(a), substituted "projects" for "demonstration projects" and "a Federal-aid system (other than the Interstate System)" for "the Federal-aid primary system".

Subsec. (c). Pub. L. 93–87, §122(a), substituted "project" for "demonstration project" and "a Federal-aid system (other than the Interstate System)" for "the Federal-aid primary system".

Subsec. (d). Pub. L. 93–87, §122(a), substituted "highways on the Federal-aid system on which such development highway is located" for "Federal-aid primary highways".

Subsec. (e). Pub. L. 93–87, §122(b), inserted introductory text "Except as otherwise provided in subsection (c) of this section," and substituted "the Federal share of the cost of any project for construction, reconstruction, or improvement of a development highway under this section shall be the same as that provided under this title for any other project on the Federal-aid system on which such development highway is located" for "the Federal share of the cost of any project for construction, reconstruction, or improvement of a development highway under this section shall be increased by not to exceed an additional 20 per centum of the cost of such project, except that in no case shall the Federal share exceed 95 per centum of the cost of such project".

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of this title.

HIGHWAY USE TAX EVASION PROJECTS

Pub. L. 102–240, title VIII, §8002(g), (h), Dec. 18, 1991, 105 Stat. 2204, 2205, as amended by Pub. L. 105–178, title I, §1114(b)(3), June 9, 1998, 112 Stat. 154, provided that:

"(g) USE OF REVENUES FOR ENFORCEMENT OF HIGHWAY TRUST FUND TAXES.—The Secretary of Transportation shall not impose any condition on the use of funds transferred under section 143 of title 23, United States Code, to the Internal Revenue Service. The Secretary

of the Treasury shall, at least 60 days before the beginning of each fiscal year (after fiscal year 1992) for which such funds are to be transferred, submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate detailing the increased enforcement activities to be financed with such funds with respect to taxes referred to in section 9503(b)(1) of the Internal Revenue Code of 1986 [26 U.S.C. 9503(b)(1)].

''[(h) Repealed. Pub. L. 105–178, title I, § 1114(b)(3)(B), June 9, 1998, 112 Stat. 154.]''

§ 144. Highway bridge program

(a) FINDING AND DECLARATION.—Congress finds and declares that it is in the vital interest of the United States that a highway bridge program be carried out to enable States to improve the condition of their highway bridges over waterways, other topographical barriers, other highways, and railroads through replacement and rehabilitation of bridges that the States and the Secretary determine are structurally deficient or functionally obsolete and through systematic preventive maintenance of bridges.

(b) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on any Federal-aid highway which are bridges over waterways, other topographical barriers, other highways, and railroads; (2) classify them according to serviceability, safety, and essentiality for public use; (3) based on that classification, assign each a priority for replacement or rehabilitation; and (4) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.

(c)(1) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on public roads, other than those on any Federal-aid highway, which are bridges over waterways, other topographical barriers, other highways, and railroads, (2) classify them according to serviceability, safety, and essentiality for public use, (3) based on the classification, assign each a priority for replacement or rehabilitation and (4) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.

(2) The Secretary may, at the request of a State, inventory bridges, on and off Federal-aid highways, for historic significance.

(3) INVENTORY OF INDIAN RESERVATION AND PARK BRIDGES.—As part of the activities carried out under paragraph (1), the Secretary, in consultation with the Secretary of the Interior, shall (A) inventory all those highway bridges on Indian reservation roads and park roads which are bridges over waterways, other topographical barriers, other highways, and railroads, (B) classify them according to serviceability, safety, and essentiality for public use, (C) based on the classification, assign each a priority for replacement or rehabilitation, and (D) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.

(d) PARTICIPATION.—

(1) BRIDGE REPLACEMENT AND REHABILITATION.—On application by a State or States to the Secretary for assistance for a highway bridge that has been determined to be eligible for replacement or rehabilitation under subsection (b) or (c), the Secretary may approve Federal participation in—

(A) replacing the bridge with a comparable facility; or

(B) rehabilitating the bridge.

(2) TYPES OF ASSISTANCE.—On application by a State or States to the Secretary, the Secretary may approve Federal assistance for any of the following activities for a highway bridge that has been determined to be eligible for replacement or rehabilitation under subsection (b) or (c):

(A) Painting.

(B) Seismic retrofit.

(C) Systematic preventive maintenance.

(D) Installation of scour countermeasures.

(E) Application of calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions.

(3) BASIS FOR DETERMINATION.—The Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based on structurally deficient and functionally obsolete highway bridges in the State.

(4) SPECIAL RULE FOR SYSTEMATIC PREVENTIVE MAINTENANCE.—Notwithstanding any other provision of this subsection, a State may carry out a project under paragraph (2)(B), (2)(C), or (2)(D) for a highway bridge without regard to whether the bridge is eligible for replacement or rehabilitation under this section.

(e) Funds authorized to carry out this section shall be apportioned among the several States on October 1 of the fiscal year for which authorized in accordance with this subsection. Each deficient bridge shall be placed into one of the following categories: (1) Federal-aid highway bridges eligible for replacement, (2) Federal-aid highway bridges eligible for rehabilitation, (3) bridges not on Federal-aid highways eligible for replacement, and (4) bridges not on Federal-aid highways eligible for rehabilitation. The deck area of deficient bridges in each category shall be multiplied by the respective unit price on a State-by-State basis, as determined by the Secretary; and the total cost in each State divided by the total cost of the deficient bridges in all States shall determine the apportionment factors. For purposes of the preceding sentence, if a State transfers funds apportioned to the State under this section in a fiscal year beginning after September 30, 1997, to any other apportionment of funds to such State under this title, the total cost of deficient bridges in such State and in all States to be determined for the succeeding fiscal year shall be reduced by the amount of such transferred funds. No State shall receive more than 10 per centum or less than 0.25 per centum of the total apportionment for any one fiscal year. The Secretary shall make these determinations based upon the latest available data, which shall be updated annually. Funds apportioned under this section shall be available for expenditure for the period specified in section 118(b)(2). Any funds not obligated at the expiration of such period shall be reapportioned by the Secretary to the other States in accordance with this subsection. The use of funds authorized under this section to carry out a project for

the seismic retrofit of a bridge shall not affect the apportionment of funds under this section.

(f) BRIDGE SET-ASIDES.—

(1) DESIGNATED PROJECTS.—

(A) IN GENERAL.—Of the amounts authorized to be appropriated to carry out the bridge program under this section for each of the fiscal years 2006 through 2009, all but $100,000,000 shall be apportioned as provided in subsection (e). Such $100,000,000 shall be available as follows:

(i) $12,500,000 per fiscal year for the Golden Gate Bridge.

(ii) $18,750,000 per fiscal year for the construction of a bridge joining the Island of Gravina to the community of Ketchikan in Alaska.

(iii) $12,500,000 per fiscal year to the State of Nevada for construction of a replacement of the federally owned bridge over the Hoover Dam in the Lake Mead National Recreation Area.

(iv) $12,500,000 per fiscal year to the State of Missouri for construction of a structure over the Mississippi River to connect the City of St. Louis, Missouri, to the State of Illinois.

(v) $12,500,000 per fiscal year for replacement and reconstruction of State maintained bridges in the State of Oklahoma.

(vi) $4,500,000 per fiscal year for replacement of the Missisquoi Bay Bridge and the removal of the Missisquoi Bay causeway, Vermont.

(vii) $8,000,000 per fiscal year for replacement and reconstruction of State-maintained bridges in the State of Vermont.

(viii) $8,750,000 per fiscal year for design, planning, and right-of-way acquisition for the Interstate Route 74 bridge from Bettendorf, Iowa, to Moline, Illinois.

(ix) $10,000,000 per fiscal year for replacement and reconstruction of State-maintained bridges in the State of Oregon.

(B) GRAVINA ACCESS SCORING.—The project described in subparagraph (A)(ii) shall not be counted for purposes of the reduction set forth in the fourth sentence of subsection (e).

(C) PERIOD OF AVAILABILITY.—Amounts made available to a State under this paragraph shall remain available until expended.

(2) BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—

(A) IN GENERAL.—Not less than 15 percent of the amount apportioned to each State in each of fiscal years 2005 through 2009 shall be expended for projects to replace, rehabilitate, paint, perform systematic preventive maintenance or seismic retrofit of, or apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing compositions to, or install scour countermeasures to, highway bridges located on public roads, other than those on a Federal-aid highway, or to complete the Warwick Intermodal Station (including the construction of a people mover between the Station and the T.F. Green Airport).

(B) REDUCTION OF EXPENDITURES.—The Secretary, after consultation with State and local officials, may reduce the requirement for expenditure for bridges not on a Federal-aid highway under subparagraph (A) with respect to the State if the Secretary determines that the State has inadequate needs to justify the expenditure.

(g) Notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525–533) shall apply to bridges authorized to be replaced, in whole or in part, by this section, except that subsection (b) of section 502 of such Act of 1946 and section 9 of the Act of March 3, 1899 (30 Stat. 1151) shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title, if such bridge is over waters (1) which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce, and (2) which are (a) not tidal, or (b) if tidal, used only by recreational boating, fishing, and other small vessels less than 21 feet in length.

(h) INVENTORIES AND REPORTS.—The Secretary shall—

(1) report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on projects approved under this section;

(2) annually revise the current inventories authorized by subsections (b) and (c) of this section;

(3) report to such committees on such inventories; and

(4) report to such committees such recommendations as the Secretary may have for improvements of the program authorized by this section.

Such reports shall be submitted to such committees biennially.

(i) Sums apportioned to a State under this section shall be made available for obligation throughout such State on a fair and equitable basis.

(j) Not later than six months after the date of enactment of this subsection, and periodically thereafter, the Secretary shall review the procedure used in approving or disapproving applications submitted under this section to determine what changes, if any, may be made to expedite such procedure. Any such changes shall be implemented by the Secretary as soon as possible. Not later than nine months after the date of enactment of this subsection, the Secretary shall submit a report to Congress which describes such review and such changes, including any recommendations for legislative changes.

(k) Notwithstanding any other provision of law, any bridge which is owned and operated by an agency (1) which does not have taxing powers, (2) whose functions include operating a federally assisted public transit system subsidized by toll revenues, shall be eligible for assistance under this section but the amount of such assistance shall in no event exceed the cumulative amount which such agency has expended for capital and operating costs to subsidize such transit system. Before authorizing an expenditure of funds under this subsection, the Secretary shall determine that the applicant agen-

cy has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the necessary bridge replacement or rehabilitation project. Any non-Federal funds expended for the seismic retrofit of the bridge may be credited toward the non-Federal share required as a condition of receipt of any Federal funds for seismic retrofit of the bridge made available after the date of the expenditure.

(*l*) REPLACEMENT OF DESTROYED BRIDGES AND FERRYBOAT SERVICE.—

(1) GENERAL RULE.—Notwithstanding any other provision of this section or of any other provision of law, a State may utilize any of the funds provided under this section to construct any bridge which—

(A) replaces any low water crossing (regardless of the length of such low water crossing),

(B) replaces any bridge which was destroyed prior to 1965,

(C) replaces any ferry which was in existence on January 1, 1984, or

(D) replaces any road bridges rendered obsolete as a result of United States Corps of Engineers flood control or channelization projects and not rebuilt with funds from the United States Corps of Engineers.

(2) FEDERAL SHARE.—The Federal share payable on any bridge construction carried out under paragraph (1) shall be 80 percent of the cost of such construction.

(m) PROGRAM FOR BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—Notwithstanding any other provision of law, with respect to any project not on a Federal-aid highway for the replacement of a bridge or rehabilitation of a bridge which is wholly funded from State and local sources, is eligible for Federal funds under this section, is noncontroversial, is certified by the State to have been carried out in accordance with all standards applicable to such projects under this section, and is determined by the Secretary upon completion to be no longer a deficient bridge, any amount expended after the date of the enactment of this subsection from State and local sources for such project in excess of 20 percent of the cost of construction thereof may be credited to the non-Federal share of the cost of the projects in such State which are eligible for Federal funds under this section. Such crediting shall be in accordance with such procedures as the Secretary may establish.

(n) HISTORIC BRIDGE PROGRAM.—

(1) COORDINATION.—The Secretary shall, in cooperation with the States, implement the programs described in this section in a manner that encourages the inventory, retention, rehabilitation, adaptive reuse, and future study of historic bridges.

(2) STATE INVENTORY.—The Secretary shall require each State to complete an inventory of all bridges on and off Federal-aid highways to determine their historic significance.

(3) ELIGIBILITY.—Reasonable costs associated with actions to preserve, or reduce the impact of a project under this chapter on, the historic integrity of historic bridges shall be eligible as reimbursable project costs under this title (including this section) if the load capacity and safety features of the bridge are adequate to serve the intended use for the life of the bridge; except that in the case of a bridge which is no longer used for motorized vehicular traffic, the costs eligible as reimbursable project costs pursuant to this subsection shall not exceed the estimated cost of demolition of such bridge.

(4) PRESERVATION.—Any State which proposes to demolish a historic bridge for a replacement project with funds made available to carry out this section shall first make the bridge available for donation to a State, locality, or responsible private entity if such State, locality, or responsible entity enters into an agreement to—

(A) maintain the bridge and the features that give it its historic significance; and

(B) assume all future legal and financial responsibility for the bridge, which may include an agreement to hold the State transportation department harmless in any liability action.

Costs incurred by the State to preserve the historic bridge, including funds made available to the State, locality, or private entity to enable it to accept the bridge, shall be eligible as reimbursable project costs under this chapter up to an amount not to exceed the cost of demolition. Any bridge preserved pursuant to this paragraph shall thereafter not be eligible for any other funds authorized pursuant to this title.

(5) HISTORIC BRIDGE DEFINED.—As used in this subsection, ''historic bridge'' means any bridge that is listed on, or eligible for listing on, the National Register of Historic Places.

(*o*) APPLICABILITY OF STATE STANDARDS FOR PROJECTS.—A project not on a Federal-aid highway under this section shall be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards.

(p) As used in this section the term ''rehabilitate'' in any of its forms means major work necessary to restore the structural integrity of a bridge as well as work necessary to correct a major safety defect.

(q) ANNUAL MATERIALS REPORT ON NEW BRIDGE CONSTRUCTION AND BRIDGE REHABILITATION.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the Secretary shall publish in the Federal Register a report describing construction materials used in new Federal-aid bridge construction and bridge rehabilitation projects.

(r) FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided under paragraph (2), the Federal share of the cost of a project payable from funds made available to carry out this section shall be determined under section 120(b).

(2) INTERSTATE SYSTEM.—The Federal share of the cost of a project on the Interstate System payable from funds made available to carry out this section shall be determined under section 120(a).

(Added Pub. L. 91–605, title II, § 204(a), Dec. 31, 1970, 84 Stat. 1741; amended Pub. L. 93–87, title

II, §204, Aug. 13, 1973, 87 Stat. 284; Pub. L. 93–643, §113, Jan. 4, 1975, 88 Stat. 2286; Pub. L. 95–599, title I, §124(a), Nov. 6, 1978, 92 Stat. 2702; Pub. L. 96–106, §§7, 8(a), Nov. 9, 1979, 93 Stat. 797; Pub. L. 97–327, §5(c), Oct. 15, 1982, 96 Stat. 1612; Pub. L. 97–424, title I, §§121(a), 122(a), Jan. 6, 1983, 96 Stat. 2111, 2112; Pub. L. 100–17, title I, §§123(a)–(d)(1), (3), (e), (f)(2), 128, 133(b)(11), Apr. 2, 1987, 101 Stat. 161–163, 167, 172; Pub. L. 102–240, title I, §1028(a)–(f), Dec. 18, 1991, 105 Stat. 1967, 1968; Pub. L. 103–220, §1, Mar. 17, 1994, 108 Stat. 100; Pub. L. 104–59, title III, §§318, 325(b), Nov. 28, 1995, 109 Stat. 588, 592; Pub. L. 105–178, title I, §§1109, 1115(f)(3); June 9, 1998, 112 Stat. 141; Pub. L. 105–206, title IX, §9002(i), July 22, 1998, 112 Stat. 836; Pub. L. 108–88, §2(b)(5), Sept. 30, 2003, 117 Stat. 1111; Pub. L. 108–202, §2(b)(3), Feb. 29, 2004, 118 Stat. 478; Pub. L. 108–224, §2(b)(2), Apr. 30, 2004, 118 Stat. 627; Pub. L. 108–263, §2(b)(2), June 30, 2004, 118 Stat. 698; Pub. L. 108–280, §2(b)(2), July 30, 2004, 118 Stat. 876; Pub. L. 108–310, §2(b)(5), Sept. 30, 2004, 118 Stat. 1145; Pub. L. 109–14, §2(b)(3), May 31, 2005, 119 Stat. 324; Pub. L. 109–20, §2(b)(2), July 1, 2005, 119 Stat. 346; Pub. L. 109–35, §2(b)(2), July 20, 2005, 119 Stat. 379; Pub. L. 109–37, §2(b)(2), July 22, 2005, 119 Stat. 394; Pub. L. 109–40, §2(b)(2), July 28, 2005, 119 Stat. 410; Pub. L. 109–59, title I, §1114, Aug. 10, 2005, 119 Stat. 1172; Pub. L. 110–244, title I, §101(m)(1), June 6, 2008, 122 Stat. 1575.)

REFERENCES IN TEXT

The General Bridge Act of 1946, referred to in subsec. (g), is title V of act Aug. 2, 1946, ch. 753, 60 Stat. 847, as amended, which is classified generally to subchapter III (§525 et seq.) of chapter 11 of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 525 of Title 33 and Tables.

Section 502(b) of such Act of 1946, referred to in subsec. (g), is section 502(b) of act Aug. 2, 1946, which is classified to section 525(b) of Title 33.

Section 9 of the Act of March 3, 1899, referred to in subsec. (g), is section 9 of act Mar. 3, 1899, ch. 425, 30 Stat. 1151, which is classified to section 401 of Title 33.

The date of enactment of this subsection, referred to in subsec. (j), is the date of enactment of Pub. L. 95–599, which was approved Nov. 6, 1978.

The date of the enactment of this subsection, referred to in subsec. (m), is the date of enactment of Pub. L. 100–17, which was approved Apr. 2, 1987.

The date of enactment of this subsection, referred to in subsec. (q), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

AMENDMENTS

2008—Pub. L. 110–244, §101(m)(1)(A), struck out ''replacement and rehabilitation'' after ''Highway bridge'' in section catchline.

Subsecs. (b)(1), (c)(1)(1). Pub. L. 110–244, §101(m)(1)(B), substituted ''Federal-aid highway'' for ''Federal-aid system''.

Subsec. (c)(2). Pub. L. 110–244, §101(m)(1)(C), substituted ''Federal-aid highways'' for ''the Federal-aid system''.

Subsec. (d)(4). Pub. L. 110–244, §101(m)(1)(D), inserted ''systematic'' before ''preventive'' in heading.

Subsec. (e)(1), (2). Pub. L. 110–244, §101(m)(1)(B), substituted ''Federal-aid highway'' for ''Federal-aid system''.

Subsec. (e)(3), (4). Pub. L. 110–244, §101(m)(1)(E), substituted ''bridges not on Federal-aid highways'' for ''off-system bridges''.

Subsec. (f). Pub. L. 110–244, §101(m)(1)(F), (G), redesignated subsec. (g) as (f) and struck out former subsec. (f) which read as follows: ''The Federal share payable on account of any project under this section shall be 80 per centum of the cost thereof.''

Subsec. (f)(1)(A)(vi). Pub. L. 110–244, §101(m)(1)(H), inserted ''and the removal of the Missisquoi Bay causeway'' after ''Bridge''.

Subsec. (f)(2). Pub. L. 110–244, §101(m)(1)(I), inserted heading and struck out former heading ''Off-system bridges''.

Subsecs. (g) to (*l*). Pub. L. 110–244, §101(m)(1)(G), redesignated subsecs. (h) to (m) as (g) to (*l*), respectively. Former subsec. (g) redesignated (f).

Subsec. (m). Pub. L. 110–244, §101(m)(1)(G), (J), redesignated subsec. (n) as (m), inserted heading, and struck out former heading ''Off-System Bridge Program''. Former subsec. (m) redesignated (*l*).

Subsec. (n). Pub. L. 110–244, §101(m)(1)(G), redesignated subsec. (*o*) as (n). Former subsec. (n) redesignated (m).

Subsec. (n)(4)(B). Pub. L. 110–244, §101(m)(1)(K), substituted ''State transportation department'' for ''State highway agency''.

Subsec. (*o*). Pub. L. 110–244, §101(m)(1)(G), redesignated subsec. (p) as (*o*). Former subsec. (*o*) redesignated (n).

Subsec. (*o*)(2). Pub. L. 110–244, §101(m)(1)(C), substituted ''Federal-aid highways'' for ''the Federal-aid system''.

Subsecs. (p) to (s). Pub. L. 110–244, §101(m)(1)(G), redesignated subsecs. (p) to (s) as (*o*) to (r), respectively.

2005—Subsec. (a). Pub. L. 109–59, §1114(a), inserted heading and amended text of subsec. (a) generally. Prior to amendment, text read as follows: ''Congress hereby finds and declares it to be in the vital interest of the Nation that a highway bridge replacement and rehabilitation program be established to enable the several States to replace or rehabilitate highway bridges over waterways, other topographical barriers, other highways, or railroads when the States and the Secretary finds that a bridge is significantly important and is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence.''

Subsec. (d). Pub. L. 109–59, §1114(b), inserted heading and amended text of subsec. (d) generally. Prior to amendment, text related to approval of Federal participation in replacement or rehabilitation of bridges.

Subsec. (e). Pub. L. 109–59, §1114(c), in third sentence, substituted ''deck area'' for ''square footage'', in fourth sentence, struck out ''the total cost of deficient bridges in a State and in all States shall be reduced by the total cost of any highway bridges constructed under subsection (m) in such State, relating to replacement of destroyed bridges and ferryboat services, and,'' after ''For purposes of the preceding sentence,'', and, in seventh sentence, substituted ''for the period specified in section 118(b)(2)'' for ''for the same period as funds apportioned for projects on the Federal-aid primary system under this title''.

Subsec. (g). Pub. L. 109–59, §1114(e)(2)(A), substituted ''BRIDGE SET-ASIDES'' for ''SET ASIDES'' in heading.

Subsec. (g)(1). Pub. L. 109–59, §1114(e)(2)(A), added par. (1) and struck out heading and text of former par. (1), which related to apportionments for the discretionary bridge program for fiscal years 1992 through 2005.

Subsec. (g)(1)(C). Pub. L. 109–59, §1114(e)(1), substituted ''2005'' for ''2003'' in heading and text.

Subsec. (g)(2). Pub. L. 109–59, §1114(e)(2)(C), redesignated par. (3) as (2).

Pub. L. 109–59, §1114(e)(2)(A), (B), both amended subsec. (g) by striking out heading and text of par. (2). Text read as follows: ''Subject to section 149(d) of the Federal-Aid Highway Act of 1987, amounts made available by paragraph (1) for obligation at the discretion of the Secretary may be obligated only—

''(A) for a project for a highway bridge the replacement or rehabilitation cost of which is more than $10,000,000, and

''(B) for a project for a highway bridge the replacement or rehabilitation cost of which is less than $10,000,000 if such cost is at least twice the amount apportioned to the State in which such bridge is lo-

cated under subsection (e) for the fiscal year in which application is made for a grant for such bridge.''

Subsec. (g)(3). Pub. L. 109–59, §1114(e)(2)(C), redesignated par. (3) as (2).

Pub. L. 109–59, §1114(d), reenacted heading without change and amended text of par. (3) generally. Prior to amendment, text read as follows: ''Not less than 15 percent nor more than 35 percent of the amount apportioned to each State in each of fiscal years 1987 through 2004 and in the period of October 1, 2004, through July 30, 2005, shall be expended for projects to replace, rehabilitate, paint or seismic retrofit, or apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions or install scour countermeasures to highway bridges located on public roads, other than those on a Federal-aid highway. The Secretary, after consultation with State and local officials, may, with respect to such State, reduce the requirement for expenditure for bridges not on a Federal-aid highway when the Secretary determines that such State has inadequate needs to justify such expenditure.''

Pub. L. 109–40 substituted ''July 30'' for ''July 27''.

Pub. L. 109–37 substituted ''July 27'' for ''July 21''.

Pub. L. 109–35 substituted ''July 21'' for ''July 19''.

Pub. L. 109–20 substituted ''July 19'' for ''June 30''.

Pub. L. 109–14 substituted ''June 30'' for ''May 31''.

Subsec. (i). Pub. L. 109–59, §1114(g), struck out ''at the same time as the report required by section 307(f) of this title is submitted to Congress'' after ''biennially'' in concluding provisions.

Subsecs. (r), (s). Pub. L. 109–59, §1114(f), added subsecs. (r) and (s).

2004—Subsec. (g)(3). Pub. L. 108–310 inserted ''and in the period of October 1, 2004, through May 31, 2005,'' after ''2004''.

Pub. L. 108–280 substituted ''2004'' for ''2003 and in the period of October 1, 2003, through July 31, 2004,''.

Pub. L. 108–263 substituted ''July 31'' for ''June 30''.

Pub. L. 108–224 substituted ''June 30'' for ''April 30''.

Pub. L. 108–202 substituted ''April 30'' for ''February 29''.

2003—Subsec. (g)(3). Pub. L. 108–88 inserted ''and in the period of October 1, 2003, through February 29, 2004,'' after ''2003''.

1998—Subsec. (d). Pub. L. 105–178, §1109(d)(1), (2), inserted '', sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions or installing scour countermeasures'' after ''magnesium acetate'' and inserted ''or sodium acetate/formate or such anti-icing or de-icing composition or installation of such countermeasures'' after ''such acetate'' in two places.

Subsec. (e). Pub. L. 105–178, §1109(a), inserted '', and, if a State transfers funds apportioned to the State under this section in a fiscal year beginning after September 30, 1997, to any other apportionment of funds to such State under this title, the total cost of deficient bridges in such State and in all States to be determined for the succeeding fiscal year shall be reduced by the amount of such transferred funds'' after ''destroyed bridges and ferryboat services''.

Subsec. (g)(1). Pub. L. 105–178, §1109(b), designated existing provisions as subpar. (A), inserted heading, realigned margins, and added subpars. (B) and (C).

Subsec. (g)(3). Pub. L. 105–178, §1109(c), (d)(3), substituted ''through 2003'' for ''1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, and 1997,'', substituted ''Federal-aid highway'' for ''Federal-aid system'' in two places, and inserted '', sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions or install scour countermeasures'' after ''magnesium acetate''.

Subsec. (g)(4). Pub. L. 105–178, §1115(f)(3), as added by Pub. L. 105–206, §9002(i), struck out heading and text of par. (4). Text read as follows: ''Not less than 1 percent of the amount apportioned to each State which has an Indian reservation within its boundaries for each fiscal year shall be expended for projects to replace, rehabilitate, paint, or apply calcium magnesium acetate to highway bridges located on Indian reservation roads. Upon determining a State bridge apportionment and before transferring funds to the States, the Secretary shall transfer the Indian reservation bridge allocation under this paragraph to the Secretary of the Interior for expenditure pursuant to this paragraph. The Secretary, after consultation with State and Indian tribal government officials and with the concurrence of the Secretary of the Interior, may, with respect to such State, reduce the requirement for expenditure for bridges under this paragraph when the Secretary determines that there are inadequate needs to justify such expenditure. The non-Federal share payable on account of such a project may be provided from funds made available for Indian reservation roads under chapter 2 of this title.''

Subsec. (n). Pub. L. 105–178, §1109(e), substituted ''Federal-aid highway'' for ''Federal-aid system''.

1995—Subsec. (i)(1). Pub. L. 104–59, §325(b), substituted ''Committee on Transportation and Infrastructure'' for ''Committee on Public Works and Transportation''.

Subsec. (*l*). Pub. L. 104–59, §318, inserted at end ''Any non-Federal funds expended for the seismic retrofit of the bridge may be credited toward the non-Federal share required as a condition of receipt of any Federal funds for seismic retrofit of the bridge made available after the date of the expenditure.''

1994—Subsec. (d). Pub. L. 103–220, §1(1), inserted before period at end of third sentence '', except that a State may carry out a project for seismic retrofit of a bridge under this section without regard to whether the bridge is eligible for replacement or rehabilitation under this section''.

Subsec. (e). Pub. L. 103–220, §1(2), inserted at end ''The use of funds authorized under this section to carry out a project for the seismic retrofit of a bridge shall not affect the apportionment of funds under this section.''

1991—Subsec. (c)(3). Pub. L. 102–240, §1028(a), added par. (3).

Subsec. (d). Pub. L. 102–240, §1028(b), inserted ''Whenever any State makes application to the Secretary for assistance in painting and seismic retrofit, or applying calcium magnesium acetate to, the structure of a highway bridge, the Secretary may approve Federal participation in the painting or seismic retrofit of, or application of such acetate to, such structure.'' after first sentence and ''(other than projects for bridge structure painting or seismic retrofit or application of such acetate)'' after ''projects'' in last sentence.

Subsec. (f). Pub. L. 102–240, §1028(c), substituted ''project'' for ''highway bridge replaced or rehabilitated''.

Subsec. (g)(1). Pub. L. 102–240, §1028(d), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Of the amount authorized per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991 by section 106(a)(5) of the Federal-Aid Highway Act of 1987, all but $225,000,000 per fiscal year shall be apportioned as provided in subsection (e) of this section. $225,000,000 per fiscal year of the amount authorized for each of such fiscal years shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date, except that the obligation of such $225,000,000 shall, subject to section 149(d) of the Federal-Aid Highway Act of 1987, be at the discretion of the Secretary.''

Subsec. (g)(3). Pub. L. 102–240, §1028(e)(1), substituted ''1991, 1992, 1993, 1994, 1995, 1996, and 1997'' for ''and 1991'' and '', rehabilitate, paint or seismic retrofit, or apply calcium magnesium acetate to'' for ''or rehabilitate''.

Subsec. (g)(4). Pub. L. 102–240, §1028(f), added par. (4).

Subsecs. (p), (q). Pub. L. 102–240, §1028(e)(2), added subsec. (p) and redesignated former subsec. (p) as (q).

1987—Subsec. (e). Pub. L. 100–17, §133(b)(11), inserted at end ''Funds apportioned under this section shall be available for expenditure for the same period as funds apportioned for projects on the Federal-aid primary system under this title. Any funds not obligated at the

expiration of such period shall be reapportioned by the Secretary to the other States in accordance with this subsection.''

Pub. L. 100–17, §123(d)(3), inserted after third sentence ''For purposes of the preceding sentence, the total cost of deficient bridges in a State and in all States shall be reduced by the total cost of any highway bridges constructed under subsection (m) in such State, relating to replacement of destroyed bridges and ferryboat services.''

Subsec. (g). Pub. L. 100–17, §123(a), amended subsec. (g) generally, revising and restating as pars. (1) to (3) provisions formerly contained in pars. (1) and (2).

Subsec. (h). Pub. L. 100–17, §123(b), substituted ''(1)'' for ''which are not subject to the ebb and flow of the tide, and'' and added cl. (2).

Subsec. (i). Pub. L. 100–17, §128, substituted ''307(f)'' for ''307(e)'' in last sentence.

Pub. L. 100–17, §123(c), amended subsec. (i) generally. Prior to amendment, subsec. (i) read as follows: ''The Secretary shall report annually on projects approved under this section, shall annually revise and report the current inventories authorized by subsections (b) and (c) of this section, and shall report such recommendations as he may have for improvement of the program authorized by this section.''

Subsec. (m). Pub. L. 100–17, §123(d)(1), added subsec. (m). Former subsec. (m) redesignated (p).

Subsec. (n). Pub. L. 100–17, §123(e), which directed that this section be amended by adding subsec. (n) after subsec. (*l*), was executed by adding subsec. (n) after subsec. (m), to reflect the probable intent of Congress.

Subsec. (*o*). Pub. L. 100–17, §123(f)(2), which directed that this section be amended by adding subsec. (*o*) after subsec. (*l*), was executed by adding subsec. (*o*) after subsec. (n), to reflect the probable intent of Congress.

Subsec. (p). Pub. L. 100–17, §123(d)(1), redesignated former subsec. (m) as (p).

1983—Subsec. (e). Pub. L. 97–424, §121(a), substituted provisions setting forth categorization, formula for apportionment factors, and limitations respecting deficient bridges for provisions relating to apportionment of funds for fiscal years ending Sept. 30, 1979, through Sept. 30, 1983, availability for expenditure of such funds, and reapportionment by the Secretary.

Pub. L. 97–327, §5(c)(1), substituted ''September 30, 1982, and September 30, 1983'' for ''and September 30, 1982''.

Subsec. (g). Pub. L. 97–424, §122(a), designated existing provisions as par. (1), struck out provisions added by section 5(c)(2) of Pub. L. 97–327 relating to apportionment of amounts for fiscal year ending Sept. 30, 1983, and added par. (2).

Pub. L. 97–327, §5(c)(2), inserted provision that, of the amount authorized for the fiscal year ending September 30, 1983, by paragraph (1) of section 5(a) of the Federal-Aid Highway Act of 1982, all but $200,000,000 (multiplied by the factor determined under section 4(a) of such Act) be apportioned, and that $200,000,000 (multiplied by such factor) of the amount authorized for such fiscal year be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date with specific limitations applicable to the obligation of such $200,000,000.

1979—Subsec. (d). Pub. L. 96–106, §7(a), substituted ''such bridge with a comparable facility or in rehabilitating such bridge'' for ''or rehabilitating such bridge with a comparable facility''.

Subsec. (g). Pub. L. 96–106, §8(a), inserted '', and for any project for a highway bridge the replacement or rehabilitation costs of which is less than $10,000,000 if such costs is at least twice the amount apportioned to the State in which such bridge is located under subsection (e) of this section for the fiscal year in which application is made for a grant for such bridge''.

Subsec. (m). Pub. L. 96–106, §7(b), substituted ''major work'' for ''major repairs''.

1978—Subsec. (a). Pub. L. 95–599 substituted provisions relating to Congressional findings as to highway bridge replacement and rehabilitation for provisions relating to Congressional findings as to special bridge replacement.

Subsec. (b). Pub. L. 95–599 added cl. (4).

Subsec. (c). Pub. L. 95–599 added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 95–599 redesignated former subsec. (c) as (d) and among other amendments struck out provisions requiring Secretary to consider economy of area and approval of projects without regard to allocation formulas under this title.

Subsec. (e). Pub. L. 95–599 added subsec. (e). Former subsec. (e) redesignated (g).

Subsec. (f). Pub. L. 95–599 redesignated former subsec. (d) as (f), substituted ''80'' for ''75'', and inserted ''highway'' after ''account of any''. Former subsec. (f) was struck out.

Subsec. (g). Pub. L. 95–599 redesignated former subsec. (e) as (g) and inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1979 through Sept. 30, 1982. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 95–599 redesignated former subsec. (g) as (h) and inserted provisions relating to exceptions to applications of the General Bridge Act of 1946. Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 95–599 redesignated former subsec. (h) as (i) and inserted provisions relating to revision and report of current inventories.

Subsecs. (j) to (m). Pub. L. 95–599 added subsecs. (j) to (m).

1975—Subsec. (e). Pub. L. 93–643 increased appropriations authorization to $125,000,000 from $75,000,000 for fiscal year ending June 30, 1976.

1973—Subsec. (e). Pub. L. 93–87, §204(a), provided for appropriations authorization of $25,000,000, $75,000,000, and $75,000,000 for fiscal years ending June 30, 1974, 1975, and 1976.

Subsecs. (f) to (h). Pub. L. 93–87, §204(b), (c), added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–59, title I, §1114(e)(2), Aug. 10, 2005, 119 Stat. 1174, provided that the amendment made by section 1114(e)(2) is effective Oct. 1, 2005.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 123(d)(2) of Pub. L. 100–17 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to funds apportioned to the States under section 144 of title 23, United States Code, after September 30, 1986.''

EFFECTIVE DATE OF 1983 AMENDMENT

Section 121(b) of Pub. L. 97–424 provided that: ''The amendment made by subsection (a) of this section [amending this section] shall take effect October 1, 1982, and shall apply with respect to each fiscal year beginning on or after such date. Notwithstanding subsection (e) of section 144 of title 23, United States Code,

as soon as practical after the date of enactment of this Act [Jan. 6, 1983], the Secretary of Transportation shall apportion under such subsection (e), as amended by subsection (a) of this section, sums authorized to be appropriated to carry out such section 144 for the fiscal year ending September 30, 1983.''

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in subsec. (h)(1), (3), and (4) of this section, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 135 of House Document No. 103–7.

USE OF DEBRIS FROM DEMOLISHED BRIDGES AND OVERPASSES

Pub. L. 109–59, title I, § 1805, Aug. 10, 2005, 119 Stat. 1459, provided that:

''(a) IN GENERAL.—Any State that demolishes a bridge or an overpass that is eligible for Federal assistance under the highway bridge replacement and rehabilitation program under section 144 of title 23, United States Code, is directed to first make the debris from the demolition of such bridge or overpass available for beneficial use by a Federal, State, or local government, unless such use obstructs navigation.

''(b) RECIPIENT RESPONSIBILITIES.—A recipient of the debris described in subsection (a) shall—

''(1) bear the additional cost associated with having the debris made available;

''(2) ensure that placement of the debris complies with applicable law; and

''(3) assume all future legal responsibility arising from the placement of the debris, which may include entering into an agreement to hold the owner of the demolished bridge or overpass harmless in any liability action.

''(c) DEFINITION.—In this section, the term 'beneficial use' means the application of the debris for purposes of shore erosion control or stabilization, ecosystem restoration, and marine habitat creation.''

NATIONAL HISTORIC COVERED BRIDGE PRESERVATION

Pub. L. 109–59, title I, § 1804, Aug. 10, 2005, 119 Stat. 1458, provided that:

''(a) DEFINITIONS.—In this section, the following definitions apply:

''(1) HISTORIC COVERED BRIDGE.—The term 'historic covered bridge' means a covered bridge that is listed or eligible for listing on the National Register of Historic Places.

''(2) STATE.—The term 'State' has the meaning such term has in section 101(a) of title 23, United States Code.

''(b) HISTORIC COVERED BRIDGE PRESERVATION.—The Secretary [of Transportation] shall—

''(1) collect and disseminate information on historic covered bridges;

''(2) conduct educational programs relating to the history and construction techniques of historic covered bridges;

''(3) conduct research on the history of historic covered bridges; and

''(4) conduct research on, and study techniques for, protecting historic covered bridges from rot, fire, natural disasters, or weight-related damage.

''(c) GRANTS.—

''(1) IN GENERAL.—The Secretary [of Transportation] shall make a grant to a State that submits an application to the Secretary that demonstrates a need for assistance in carrying out one or more historic covered bridge projects described in paragraph (2).

''(2) ELIGIBLE PROJECTS.—A grant under paragraph (1) may be made for a project—

''(A) to rehabilitate or repair a historic covered bridge; or

''(B) to preserve a historic covered bridge, including through—

''(i) installation of a fire protection system, including a fireproofing or fire detection system and sprinklers;

''(ii) installation of a system to prevent vandalism and arson; or

''(iii) relocation of a bridge to a preservation site.

''(3) AUTHENTICITY REQUIREMENTS.—A grant under paragraph (1) may be made for a project only if—

''(A) to the maximum extent practicable, the project—

''(i) is carried out in the most historically appropriate manner; and

''(ii) preserves the existing structure of the historic covered bridge; and

''(B) the project provides for the replacement of wooden components with wooden components, unless the use of wood is impracticable for safety reasons.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $10,000,000 for each of fiscal years 2006 through 2009.

''(e) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project or activity carried out under this section shall be determined in accordance with section 120 of such title, and such funds shall remain available until expended and shall not be transferable.''

Pub. L. 105–178, title I, § 1224, as added by Pub. L. 105–206, title IX, § 9003(a), July 22, 1998, 112 Stat. 837, provided that:

''(a) HISTORIC COVERED BRIDGE DEFINED.—In this section, the term 'historic covered bridge' means a covered bridge that is listed or eligible for listing on the National Register of Historic Places.

''(b) HISTORIC COVERED BRIDGE PRESERVATION.—Subject to the availability of appropriations under subsection (d), the Secretary shall—

''(1) collect and disseminate information concerning historic covered bridges;

''(2) foster educational programs relating to the history and construction techniques of historic covered bridges;

''(3) conduct research on the history of historic covered bridges; and

''(4) conduct research, and study techniques, on protecting historic covered bridges from rot, fire, natural disasters, or weight-related damage.

''(c) DIRECT FEDERAL ASSISTANCE.—

''(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall make a grant to a State that submits an application to the Secretary that demonstrates a need for assistance in carrying out 1 or more historic covered bridge projects described in paragraph (2).

''(2) TYPES OF PROJECT.—A grant under paragraph (1) may be made for a project—

''(A) to rehabilitate or repair a historic covered bridge; and

''(B) to preserve a historic covered bridge, including through—

''(i) installation of a fire protection system, including a fireproofing or fire detection system and sprinklers;

''(ii) installation of a system to prevent vandalism and arson; or

''(iii) relocation of a bridge to a preservation site.

''(3) AUTHENTICITY.—A grant under paragraph (1) may be made for a project only if—

''(A) to the maximum extent practicable, the project—

''(i) is carried out in the most historically appropriate manner; and

''(ii) preserves the existing structure of the historic covered bridge; and

''(B) the project provides for the replacement of wooden components with wooden components, unless the use of wood is impracticable for safety reasons.

''(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out with a grant under this subsection shall be 80 percent.

''(d) FUNDING.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1999 through 2003. Such funds shall remain available until expended.''

HIGHWAY TIMBER BRIDGE RESEARCH AND DEMONSTRATION PROGRAM

Section 1039 of Pub. L. 102–240, as amended by Pub. L. 102–388, title IV, §408, Oct. 6, 1992, 106 Stat. 1564, provided that:

''(a) RESEARCH GRANTS.—The Secretary may make grants to other Federal agencies, universities, private businesses, nonprofit organizations, and any research or engineering entity to carry out research on 1 or more of the following:

''(1) Development of new, economical highway timber bridge systems.

''(2) Development of engineering design criteria for structural wood products for use in highway bridges in order to improve methods for characterizing lumber design properties.

''(3) Preservative systems for use in highway timber bridges which demonstrate new alternatives and current treatment processes and procedures and which are environmentally sound with respect to application, use, and disposal of treated wood.

''(4) Alternative transportation system timber structures which demonstrate the development of applications for railing, sign, and lighting supports, sound barriers, culverts, and retaining walls in highway applications.

''(5) Rehabilitation measures which demonstrate effective, safe, and reliable methods for rehabilitating existing highway timber structures.

''(b) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as may be necessary to ensure that the information and technology resulting from research conducted under subsection (a) is made available to State and local transportation departments and other interested persons.

''(c) CONSTRUCTION GRANTS.—

''(1) AUTHORITY.—The Secretary shall make grants to States for construction of highway timber bridges on public roads.

''(2) APPLICATIONS.—A State interested in receiving a grant under this subsection must submit an application therefor to the Secretary. Such application shall be in such form and contain such information as the Secretary may require by regulation.

''(3) APPROVAL CRITERIA.—The Secretary shall select and approve applications for grants under this subsection based on the following criteria:

''(A) Bridge designs which have both initial and long-term structural and environmental integrity.

''(B) Bridge designs which utilize timber species native to the State or region.

''(C) Innovative bridge designs which have the possibility of increasing knowledge, cost effectiveness, and future use of such designs.

''(D) Environmental practices for preservative treated timber, and construction techniques which comply with all environmental regulations, will be utilized.

''(d) FEDERAL SHARE.—The Federal share of the costs of research and construction projects carried out under this section shall be 80 percent.

''(e) FUNDING.—From the funds reserved from apportionment under section 144(g)(1) [now 144(f)(1)] of title 23, United States Code, for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997—

''(1) $1,000,000 shall be available to the Secretary for carrying out subsections (a) and (b); and

''(2) $7,500,000 ($7,000,000 in the case of fiscal year 1992) shall be available to the Secretary for carrying out subsection (c).

Such sums shall remain available until expended.

''(f) STATE DEFINED.—For purposes of this section, the term 'State' has the meaning such term has under section 101 of title 23, United States Code.''

FEASIBILITY OF INTERNATIONAL BORDER HIGHWAY INFRASTRUCTURE DISCRETIONARY PROGRAM

Section 1089 of Pub. L. 102–240 directed Secretary of Transportation to conduct a study of advisability and feasibility of establishing an international border highway infrastructure discretionary program and, not later than Sept. 30, 1993, transmit to Congress a report on results of the study, together with any recommendations.

HISTORIC BRIDGES; CONGRESSIONAL FINDINGS AND DECLARATIONS

Section 123(f)(1) of Pub. L. 100–17 provided that: ''Congress hereby finds and declares it to be in the national interest to encourage the rehabilitation, reuse and preservation of bridges significant in American history, architecture, engineering and culture. Historic bridges are important links to our past, serve as safe and vital transportation routes in the present, and can represent significant resources for the future.''

STUDY BY TRANSPORTATION RESEARCH BOARD ON EFFECTS OF BRIDGE PROGRAM ON PRESERVATION AND REHABILITATION OF HISTORIC BRIDGES; RECOMMENDATION OF STANDARDS FOR REHABILITATION OF HISTORIC BRIDGES; REPORT

Section 123(f)(3) of Pub. L. 100–17 provided that:

''(A) TRANSPORTATION RESEARCH BOARD.—The Secretary shall make appropriate arrangements with the Transportation Research Board of the National Academy of Sciences to carry out a study on the effects of the bridge program conducted under section 144 of title 23, United States Code, on the preservation and rehabilitation of historic bridges. The Transportation Research Board shall also develop recommendations of specific standards which shall apply only to the rehabilitation of historic bridges, and shall provide an analysis of any other factors which would serve to enhance the rehabilitation of historic bridges.

''(B) REPORT.—Not later than 1 year after entering into appropriate arrangements under subparagraph (A), the Transportation Research Board shall submit to the Secretary and the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the study conducted under subparagraph (A) and on the recommendations developed pursuant to subparagraph (A).''

STUDY OF HIGHWAY BRIDGES WHICH CROSS RAIL LINES; REPORT

Section 160 of Pub. L. 100–17 directed Secretary to conduct a comprehensive study and investigation of improvement and maintenance needs for highway bridges which cross rail lines and whose ownership has been disputed and, not later than 30 months after Apr. 2, 1987, submit to Congress a report on the study and investigation along with recommendations on how the bridge needs could best be addressed on a long term basis in a cost-effective manner.

FOUR-LANE BRIDGES

Section 130 of Pub. L. 97–424 provided that: ''Whenever any law of the United States, enacted after January 1, 1970, and before the date of enactment of this Act [Jan. 6, 1983], authorizes payment, in financing the relocation of an existing road, for the cost of construction of a two-lane bridge with a substructure and deck truss capable of supporting a four-lane bridge, payment for the cost of completing the construction of such bridge as a four-lane bridge is authorized upon the completion of such substructure and deck truss.''

DISCRETIONARY BRIDGE CRITERIA

Section 161 of Pub. L. 97–424, as amended by Pub. L. 100–17, title I, §123(h), Apr. 2, 1987, 101 Stat. 164, pro-

vided that: ''The Secretary of Transportation shall develop a selection process for discretionary bridges authorized to be funded under section 144(g) [now 144(f)] of title 23, United States Code, and shall propose and issue a final regulation no later than six months after the date of enactment of this Act [Jan. 6, 1983], including a formula resulting in a rating factor based on the following criteria for such process. Such criteria shall give funding priority to those discretionary bridges already eligible under section 144(g) of title 23, United States Code, including a bridge replacement of which was partially funded under the Supplemental Appropriations Act, 1983 [Pub. L. 98–63] (97 Stat. 341). Eligible bridges after the issuance of a final regulation shall only include those with a rating factor of one hundred or less, based on a scale of zero to infinity. The criteria for such additional bridges which the Secretary shall consider are:

''(1) sufficiency rating computed as illustrated in appendix A of the Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges, USDOT/FHWA (latest edition);

''(2) average daily traffic using the most current value from the national bridge inventory data;

''(3) average daily truck traffic;

''(4) defense highway system status;

''(5) the State's unobligated balance of funds received under section 144 of title 23, United States Code, and the total funds received under section 144 of title 23, United States Code;

''(6) total project cost; and

''(7) special consideration should be given to bridges closed to all traffic or restricted to loads less than ten tons. Other unique considerations and the need to administer the program from a balanced national perspective should also be considered.''

TRANSFER OF DISCRETIONARY BRIDGE FUNDS

Section 8(b) of Pub. L. 96–106 provided for the transfer of discretionary bridge funds authorized under subsec. (g) of this section for fiscal year 1980 to a State's apportionment under section 104(b)(6) of this title to repay funds obligated under section 104(b)(6) between June 1 and July 31, 1979, for bridge projects which are eligible for funding by virtue of the amendment of subsec. (g) of this section by section 8(a) of Pub. L. 96–106.

TIME FOR COMPLETION OF INVENTORY AND CLASSIFICATION OF HIGHWAY BRIDGES

Section 124(c) of Pub. L. 95–599 directed Secretary of Transportation to complete the requirements of subsec. (c) of this section, as amended by subsec. (a) of section 124 of Pub. L. 95–599, not later than the last day of the second full calendar year which begins after Nov. 6, 1978.

ACCELERATION OF BRIDGE PROJECTS; OHIO RIVER BRIDGE FUND REPROGRAMMING; REPORTS TO CONGRESS

Section 147 of Pub. L. 95–599, as amended by Pub. L. 96–106, § 15, Nov. 19, 1979, 93 Stat. 798; Pub. L. 99–272, title IV, § 4105, Apr. 7, 1986, 100 Stat. 116, directed Secretary of Transportation to conduct two projects to construct or replace high-traffic-volume bridges on the Federal-aid highway system which span major bodies of water in order to demonstrate the feasibility of reducing the time required to replace unsafe bridges; authorized funds for the projects; directed Secretary to report to Congress within six months after the completion of each project; redirected certain funds in excess of amounts needed to complete the projects for use in further projects for construction of three state-of-the-art Ohio River bridges linking designated cities in Kentucky and Ohio; and directed Secretary to report to Congress within a year after the completion of these bridges.

§ 145. Federal-State relationship

(a) PROTECTION OF STATE SOVEREIGNTY.—The authorization of the appropriation of Federal funds or their availability for expenditure under this chapter shall in no way infringe on the sovereign rights of the States to determine which projects shall be federally financed. The provisions of this chapter provide for a federally assisted State program.

(b) PURPOSE OF PROJECTS.—The projects described in section 1702 of the SAFETEA–LU, section 1602 of the Transportation Equity Act for the 21st Century, sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027 et seq.), and section 149(a) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 181 et seq.) are intended to establish eligibility for Federal-aid highway funds made available for such projects by section 1101(a)(16) of the SAFETEA–LU, section 1101(a)(13) of the Transportation Equity Act for the 21st Century, section 117 of this title, sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991, and subsections (b), (c), and (d) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987, respectively, and are not intended to define the scope or limits of Federal action in a manner inconsistent with subsection (a).

(Added Pub. L. 93–87, title I, § 123(a), Aug. 13, 1973, 87 Stat. 261; amended Pub. L. 105–178, title I, § 1601(b), June 9, 1998, 112 Stat. 256; Pub. L. 109–59, title I, § 1701(e), Aug. 10, 2005, 119 Stat. 1256.)

REFERENCES IN TEXT

Section 1702 of the SAFETEA–LU, referred to in subsec. (b), is section 1702 of Pub. L. 109–59, title I, Aug. 10, 2005, 119 Stat. 1256, which is not classified to the Code.

Section 1602 of the Transportation Equity Act for the 21st Century, referred to in subsec. (b), is section 1602 of Pub. L. 105–178, title I, June 9, 1998, 112 Stat. 256, which is not classified to the Code.

Sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (b), are sections 1103 to 1108 of Pub. L. 102–240, title I, Dec. 18, 1991, 105 Stat. 2027–2063. See Tables for classification.

Section 149(a) of the Surface Transportation and Uniform Relocation Assistance Act of 1987, referred to in subsec. (b), is section 149(a) of Pub. L. 100–17, title I, Apr. 2, 1987, 101 Stat. 181, which is not classified to the Code.

Section 1101(a)(16) of the SAFETEA–LU, referred to in subsec. (b), is section 1101(a)(16) of Pub. L. 109–59, title I, Aug. 10, 2005, 119 Stat. 1155, which is not classified to the Code.

Section 1101(a)(13) of the Transportation Equity Act for the 21st Century, referred to in subsec. (b), is section 1101(a)(13) of Pub. L. 105–178, title I, June 9, 1998, 112 Stat. 113, which is not classified to the Code.

AMENDMENTS

2005—Subsec. (b). Pub. L. 109–59 inserted ''section 1702 of the SAFETEA–LU,'' after ''described in'' and ''section 1101(a)(16) of the SAFETEA–LU,'' after ''for such projects by'' and substituted ''section 117 of this title,'' for ''117 of title 23, United States Code,''.

1998—Pub. L. 105–178 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

§ 146. Carpool and vanpool projects

(a) In order to conserve fuel, decrease traffic congestion during rush hours, improve air quality, and enhance the use of existing highways and parking facilities, the Secretary may ap-

prove for Federal financial assistance from funds apportioned under sections 104(b)(1) and 104(b)(3) of this title, projects designed to encourage the use of carpools and vanpools. (As used hereafter in this section, the term ''carpool'' includes a vanpool.) Such a project may include, but is not limited to, such measures as providing carpooling opportunities to the elderly and handicapped, systems for locating potential riders and informing them of convenient carpool opportunities, acquiring vehicles appropriate for carpool use, designating existing highway lanes as preferential carpool highway lanes, providing related traffic control devices, and designating existing facilities for use as preferential parking for carpools.

(b) A project authorized by this section shall be subject to and carried out in accordance with all provisions of this title, except those provisions which the Secretary determines are inconsistent with this section.

(Added Pub. L. 95–599, title I, §126(a), Nov. 6, 1978, 92 Stat. 2705; amended Pub. L. 105–178, title I, §1103(*l*)(1), June 9, 1998, 112 Stat. 125.)

PRIOR PROVISIONS

A prior section 146, Pub. L. 93–87, title I, §125(a), Aug. 13, 1973, 87 Stat. 262, related to a special urban high density traffic program, prior to repeal by Pub. L. 94–280, title I, §128(a), May 5, 1976, 90 Stat. 440.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–178 substituted ''sections 104(b)(1) and 104(b)(3)'' for ''sections 104(b)(1), 104(b)(2), and 104(b)(6)''.

USE OF HIGH OCCUPANCY LANES

Pub. L. 97–424, title I, §163, Jan. 6, 1983, 96 Stat. 2136, as amended by Pub. L. 100–17, title I, §133(a)(4), (5), Apr. 2, 1987, 101 Stat. 170, 171; Pub. L. 102–240, title I, §1056, Dec. 18, 1991, 105 Stat. 2002, provided that: ''Notwithstanding any other provision of this Act or any other law, no funds apportioned or allocated to a State for Federal-aid highways shall be obligated for a project for constructing, resurfacing, restoring, rehabilitating, or reconstructing a Federal-aid highway which has a lane designated as a carpool lane unless the use of such lane includes use by motorcycles. Upon certification by the State to the Secretary of Transportation, after notice in the Federal Register and an opportunity for public comment, and acceptance of such certification by the Secretary, the State may restrict such use by motorcycles if such use would create a safety hazard. Any certification made before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991 [Dec. 18, 1991] shall not be recognized by the Secretary until the Secretary publishes notice of such certification in the Federal Register and provides an opportunity for public comment on such certification.''

EXPENDITURE OF ADMINISTRATIVE FUNDS FOR CARPOOLING AND VANPOOLING PROGRAMS

Pub. L. 97–424, title I, §123(b), Jan. 6, 1983, 96 Stat. 2113, provided that: ''The Secretary of Transportation is authorized and directed to expend such sums as are necessary out of the administrative funds authorized by subsection (a) of section 104, title 23, United States Code, to carry out the provisions of subsection (d) of section 126 of the Federal-Aid Highway Act of 1978 [section 126(d) of Pub. L. 95–599, set out below].''

GRANTS TO STATES, COUNTIES, ETC., TO PROMOTE CARPOOLING AND VANPOOLING PROGRAMS

Section 126(d)–(h) of Pub. L. 95–599, as amended by Pub. L. 102–240, title III, §3004(b), Dec. 18, 1991, 105 Stat. 2088, provided that:

''(d) It is hereby declared to be national policy that special effort should be made to promote commuter modes of transportation which conserve energy, reduce pollution, and reduce traffic congestion. The Secretary is directed to assist both public and private employers and employees who wish to establish carpooling and vanpooling programs where they are needed and desired, and to assist local and State governments, and their instrumentalities, in encouraging such modes by removing legal and regulatory barriers to such programs, supporting existing carpooling and vanpooling programs, and providing technical assistance, for the purpose of increasing participation in such modes.

''(e) The Secretary of Transportation is authorized to make grants and loans to States, counties, municipalities, metropolitan planning organizations, and other units of local and regional government consistent with the policy of subsection (d) of this section. Such grants and loans shall be awarded in a manner which emphasizes energy conservation, although the Secretary may use other factors as he deems appropriate. The Federal share of the costs of any project approved under this subsection shall not exceed 75 per centum. No grant awarded under this subsection may be used for the purchase or lease of vehicles.

''(f) There is hereby authorized to be appropriated, out of the Highway Trust Fund, not to exceed $1,000,000 for the fiscal year ending September 30, 1979, $1,000,000 for the fiscal year ending September 30, 1980, and $1,000,000 for the fiscal year ending September 30, 1981, for expenditures incurred by the Secretary of Transportation in carrying out the provisions of subsection (d) of this section, and $3,000,000 for the fiscal year ending September 30, 1979, and $9,000,000 for the fiscal year ending September 30, 1980, for the purpose of carrying out the program described in subsection (e) of this section.

''(g) The Secretary of Transportation shall not approve any project under subsection (d) or (e) of this section or under section 146 of title 23, United States Code; which will have an adverse effect on any mass transportation system.

''(h) The Secretary of Transportation is directed to study the administrative effectiveness of carpooling and vanpooling programs within the Department of Transportation, including programs of the Federal Highway Administration, the Federal Transit Administration, and the Office of the Secretary. Such study shall be completed no later than September 30, 1979. Upon completion of such study, the Secretary shall propose a plan to centralize or modify such programs to make delivery of services and grants more efficient, more cost-effective, and to avoid duplication of effort. Such plan shall list statutory changes needed to implement such a plan, which shall be sent to Congress no later than March 30, 1980.''

[''Federal Transit Administration'' substituted for ''Urban Mass Transit Administration'' in section 126(h) of Pub. L. 95–599, set out above, pursuant to section 3004(a) of Pub. L. 102–240, set out as a note under section 107 of Title 49, Transportation.]

FEDERAL FACILITY RIDESHARING PROGRAM

For provisions relating to the Federal Facilities Ridesharing Program, see Ex. Ord. No. 12191, Feb. 1, 1980, 45 F.R. 7997, set out as a note under section 6361 of Title 42, The Public Health and Welfare.

§147. Construction of ferry boats and ferry terminal facilities

(a) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c).

(b) FEDERAL SHARE.—The Federal share of the cost of construction of ferry boats, ferry terminals, and ferry maintenance facilities under this section shall be 80 percent.

(c) ALLOCATION OF FUNDS.—The Secretary shall give priority in the allocation of funds

under this section to those ferry systems, and public entities responsible for developing ferries, that—

(1) provide critical access to areas that are not well-served by other modes of surface transportation;

(2) carry the greatest number of passengers and vehicles; or

(3) carry the greatest number of passengers in passenger-only service.

(d) SET-ASIDE FOR PROJECTS ON NHS.—

(1) IN GENERAL.—$20,000,000 of the amount made available to carry out this section for each of fiscal years 2005 through 2009 shall be obligated for the construction or refurbishment of ferry boats and ferry terminal facilities and approaches to such facilities within marine highway systems that are part of the National Highway System.

(2) ALASKA.—$10,000,000 of the $20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of Alaska.

(3) NEW JERSEY.—$5,000,000 of the $20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of New Jersey.

(4) WASHINGTON.—$5,000,000 of the $20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of Washington.

(e) PERIOD OF AVAILABILITY.—Notwithstanding section 118(b), funds made available to carry out this section shall remain available until expended.

(f) APPLICABILITY.—All provisions of this chapter that are applicable to the National Highway System, other than provisions relating to apportionment formula and Federal share, shall apply to funds made available to carry out this section, except as determined by the Secretary to be inconsistent with this section.

(Added Pub. L. 93–87, title I, § 126(a), Aug. 13, 1973, 87 Stat. 263; amended Pub. L. 94–280, title I, § 130, May 5, 1976, 90 Stat. 440; Pub. L. 105–178, title I, § 1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 193; Pub. L. 109–59, title I, § 1801(a), Aug. 10, 2005, 119 Stat. 1455.)

AMENDMENTS

2005—Pub. L. 109–59 amended section catchline and text generally, substituting provisions relating to program for construction of ferry boats and ferry terminal facilities for provisions relating to selection of high traffic sections of highways as priority primary routes for priority of improvement to supplement the service provided by the Interstate System by furnishing needed adequate traffic collector and distributor facilities.

1998—Subsec. (a). Pub. L. 105–178 substituted ''State transportation department'' for ''State highway department''.

1976—Subsec. (b). Pub. L. 94–280 amended subsec. (b) generally, striking out apportionment provisions.

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 109–59, title I, § 1801(d), Aug. 10, 2005, 119 Stat. 1456, provided that: ''In addition to amounts made available to carry out section 147 of title 23, United States Code, by section 1101 of this Act [119 Stat. 1153], there are authorized to be appropriated such sums as may be necessary to carry out such section 147 for fiscal year 2006 and each fiscal year thereafter. Such funds shall remain available until expended.''

§ 148. Highway safety improvement program

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) HIGH RISK RURAL ROAD.—The term ''high risk rural road'' means any roadway functionally classified as a rural major or minor collector or a rural local road—

(A) on which the accident rate for fatalities and incapacitating injuries exceeds the statewide average for those functional classes of roadway; or

(B) that will likely have increases in traffic volume that are likely to create an accident rate for fatalities and incapacitating injuries that exceeds the statewide average for those functional classes of roadway.

(2) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term ''highway safety improvement program'' means the program carried out under this section.

(3) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

(A) IN GENERAL.—The term ''highway safety improvement project'' means a project described in the State strategic highway safety plan that—

(i) corrects or improves a hazardous road location or feature; or

(ii) addresses a highway safety problem.

(B) INCLUSIONS.—The term ''highway safety improvement project'' includes a project for one or more of the following:

(i) An intersection safety improvement.

(ii) Pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition).

(iii) Installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists, pedestrians, and the disabled.

(iv) Installation of a skid-resistant surface at an intersection or other location with a high frequency of accidents.

(v) An improvement for pedestrian or bicyclist safety or safety of the disabled.

(vi) Construction of any project for the elimination of hazards at a railway-highway crossing that is eligible for funding under section 130, including the separation or protection of grades at railway-highway crossings.

(vii) Construction of a railway-highway crossing safety feature, including installation of protective devices.

(viii) The conduct of a model traffic enforcement activity at a railway-highway crossing.

(ix) Construction of a traffic calming feature.

(x) Elimination of a roadside obstacle.

(xi) Improvement of highway signage and pavement markings.

(xii) Installation of a priority control system for emergency vehicles at signalized intersections.

(xiii) Installation of a traffic control or other warning device at a location with high accident potential.

(xiv) Safety-conscious planning.

(xv) Improvement in the collection and analysis of crash data.

(xvi) Planning integrated interoperable emergency communications equipment, operational activities, or traffic enforcement activities (including police assistance) relating to workzone safety.

(xvii) Installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of motorists and workers), and crash attenuators.

(xviii) The addition or retrofitting of structures or other measures to eliminate or reduce accidents involving vehicles and wildlife.

(xix) Installation and maintenance of signs (including fluorescent, yellow-green signs) at pedestrian-bicycle crossings and in school zones.

(xx) Construction and yellow-green signs at pedestrian-bicycle crossings and in school zones.

(xxi) Construction and operational improvements on high risk rural roads.

(4) SAFETY PROJECT UNDER ANY OTHER SECTION.—

(A) IN GENERAL.—The term ''safety project under any other section'' means a project carried out for the purpose of safety under any other section of this title.

(B) INCLUSION.—The term ''safety project under any other section'' includes a project to promote the awareness of the public and educate the public concerning highway safety matters (including motorcyclist safety) and a project to enforce highway safety laws.

(5) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term ''State highway safety improvement program'' means projects or strategies included in the State strategic highway safety plan carried out as part of the State transportation improvement program under section 135(g).

(6) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term ''State strategic highway safety plan'' means a plan developed by the State transportation department that—

(A) is developed after consultation with—

(i) a highway safety representative of the Governor of the State;

(ii) regional transportation planning organizations and metropolitan planning organizations, if any;

(iii) representatives of major modes of transportation;

(iv) State and local traffic enforcement officials;

(v) persons responsible for administering section 130 at the State level;

(vi) representatives conducting Operation Lifesaver;

(vii) representatives conducting a motor carrier safety program under section 31102, 31106, or 31309 of title 49;

(viii) motor vehicle administration agencies; and

(ix) other major State and local safety stakeholders;

(B) analyzes and makes effective use of State, regional, or local crash data;

(C) addresses engineering, management, operation, education, enforcement, and emergency services elements (including integrated, interoperable emergency communications) of highway safety as key factors in evaluating highway projects;

(D) considers safety needs of, and high-fatality segments of, public roads;

(E) considers the results of State, regional, or local transportation and highway safety planning processes;

(F) describes a program of projects or strategies to reduce or eliminate safety hazards;

(G) is approved by the Governor of the State or a responsible State agency; and

(H) is consistent with the requirements of section 135(g).

(b) PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.

(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on public roads.

(c) ELIGIBILITY.—

(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(5) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

(A) develops and implements a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in paragraph (2);

(B) produces a program of projects or strategies to reduce identified safety problems;

(C) evaluates the plan on a regular basis to ensure the accuracy of the data and priority of proposed improvements; and

(D) submits to the Secretary an annual report that—

(i) describes, in a clearly understandable fashion, not less than 5 percent of locations determined by the State, using criteria established in accordance with paragraph (2)(B)(ii), as exhibiting the most severe safety needs; and

(ii) contains an assessment of—

(I) potential remedies to hazardous locations identified;

(II) estimated costs associated with those remedies; and

(III) impediments to implementation other than cost associated with those remedies.

(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State strategic highway safety plan, a State shall—

(A) have in place a crash data system with the ability to perform safety problem identification and countermeasure analysis;

(B) based on the analysis required by subparagraph (A)—

(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that

constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, and other highway users; and

(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of accidents, injuries, deaths, traffic volume levels, and other relevant data;

(C) adopt strategic and performance-based goals that—

(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;

(ii) focus resources on areas of greatest need; and

(iii) are coordinated with other State highway safety programs;

(D) advance the capabilities of the State for traffic records data collection, analysis, and integration with other sources of safety data (such as road inventories) in a manner that—

(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

(ii) includes all public roads;

(iii) identifies hazardous locations, sections, and elements on public roads that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, the disabled, and other highway users; and

(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of accidents, injuries, deaths, and traffic volume levels;

(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through crash data analysis;

(ii) identify opportunities for preventing the development of such hazardous conditions; and

(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

(d) ELIGIBLE PROJECTS.—

(1) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) to carry out—

(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail; or

(B) as provided in subsection (e), other safety projects.

(2) USE OF OTHER FUNDING FOR SAFETY.—

(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of their safety needs and opportunities by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

(e) FLEXIBLE FUNDING FOR STATES WITH A STRATEGIC HIGHWAY SAFETY PLAN.—

(1) IN GENERAL.—To further the implementation of a State strategic highway safety plan, a State may use up to 10 percent of the amount of funds apportioned to the State under section 104(b)(5) for a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan if the State certifies that—

(A) the State has met needs in the State relating to railway-highway crossings; and

(B) the State has met the State's infrastructure safety needs relating to highway safety improvement projects.

(2) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—Nothing in this subsection requires a State to revise any State process, plan, or program in effect on the date of enactment of this section.

(f) HIGH RISK RURAL ROADS.—

(1) IN GENERAL.—After making an apportionment under section 104(b)(5) for a fiscal year beginning after September 30, 2005, the Secretary shall ensure, from amounts made available to carry out this section for such fiscal year, that a total of $90,000,000 of such apportionment is set aside by the States, proportionally according to the share of each State of the total amount so apportioned, for use only for construction and operational improvements on high risk rural roads.

(2) SPECIAL RULE.—A State may use funds apportioned to the State pursuant to this subsection for any project under this section if the State certifies to the Secretary that the State has met all of State needs for construction and operational improvements on high risk rural roads.

(g) REPORTS.—

(1) IN GENERAL.—A State shall submit to the Secretary a report that—

(A) describes progress being made to implement highway safety improvement projects under this section;

(B) assesses the effectiveness of those improvements; and

(C) describes the extent to which the improvements funded under this section contribute to the goals of—

(i) reducing the number of fatalities on roadways;

(ii) reducing the number of roadway-related injuries;

(iii) reducing the occurrences of roadway-related crashes;

(iv) mitigating the consequences of roadway-related crashes; and

(v) reducing the occurrences of crashes at railway-highway crossings.

(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for a report under paragraph (1).

(3) TRANSPARENCY.—The Secretary shall make reports submitted under subsection (c)(1)(D) available to the public through—

(A) the Web site of the Department; and

(B) such other means as the Secretary determines to be appropriate.

(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for any purpose directly relating to paragraph (1) or subsection (c)(1)(D), or published by the Secretary in accordance with paragraph (3), shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in such reports, surveys, schedules, lists, or other data.

(h) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds apportioned to a State under section 104(b)(5) shall be 90 percent.

(Added Pub. L. 93–87, title I, § 129(b), Aug. 13, 1973, 87 Stat. 265; amended Pub. L. 95–599, title I, §§ 125, 129(d), Nov. 6, 1978, 92 Stat. 2705, 2707; Pub. L. 109–59, title I, § 1401(a)(1), Aug. 10, 2005, 119 Stat. 1219.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (e)(2), probably means the date of enactment of Pub. L. 109–59, which amended this section generally and was approved Aug. 10, 2005.

AMENDMENTS

2005—Pub. L. 109–59 amended section catchline and text generally, substituting provisions relating to a highway safety improvement program for provisions relating to development of the Great River Road, a national scenic and recreational highway.

1978—Subsec. (a)(5). Pub. L. 95–599, § 125(b), inserted provision authorizing charging of a fee in certain cases to cover operational costs.

Subsec. (e). Pub. L. 95–599, § 129(d), substituted ''75 per centum'' for ''70 per centum''.

Subsec. (h). Pub. L. 95–599, § 125(a), added subsec. (h).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 129(d) of Pub. L. 95–599 effective with respect to obligations incurred after Nov. 6, 1978, see section 129(h) of Pub. L. 95–599, set out as a note under section 120 of this title.

TRANSITION

Pub. L. 109–59, title I, § 1401(d), formerly § 1401(e), Aug. 10, 2005, 119 Stat. 1227, renumbered § 1401(d) by Pub. L. 110–244, title I, § 101(s)(1), June 6, 2008, 122 Stat. 1577, provided that:

''(1) IMPLEMENTATION.—Except as provided in paragraph (2), the Secretary [of Transportation] shall approve obligations of funds apportioned under section 104(b)(5) of title 23, United States Code (as added by subsection (b)), to carry out section 148 of that title, only if, not later than October 1 of the second fiscal year beginning after the date of enactment of this Act [Aug. 10, 2005], a State has developed and implemented a State strategic highway safety plan as required pursuant to section 148(c) of that title.

''(2) INTERIM PERIOD.—

''(A) IN GENERAL.—Before October 1 of the second fiscal year after the date of enactment of this Act and until the date on which a State develops and implements a State strategic highway safety plan, the Secretary shall apportion funds to a State for the highway safety improvement program and the State may obligate funds apportioned to the State for the highway safety improvement program under section 148 for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

''(B) NO STRATEGIC HIGHWAY SAFETY PLAN.—If a State has not developed a strategic highway safety plan by October 1, 2007, the State shall receive for the highway safety improvement program for each subsequent fiscal year until the date of development of such plan an amount that equals the amount apportioned to the State for that program for fiscal year 2007.''

§ 149. Congestion mitigation and air quality improvement program

(a) ESTABLISHMENT.—The Secretary shall establish and implement a congestion mitigation and air quality improvement program in accordance with this section.

(b) ELIGIBLE PROJECTS.—Except as provided in subsection (c), a State may obligate funds apportioned to it under section 104(b)(2) for the congestion mitigation and air quality improvement program only for a transportation project or program if the project or program is for an area in the State that is or was designated as a nonattainment area for ozone, carbon monoxide, or particulate matter under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) and classified pursuant to section 181(a), 186(a), 188(a), or 188(b) of the Clean Air Act (42 U.S.C. 7511(a), 7512(a), 7513(a), or 7513(b)) or is or was designated as a nonattainment area under such section 107(d) after December 31, 1997, or is required to prepare, and file with the Administrator of the Environmental Protection Agency, maintenance plans under the Clean Air Act (42 U.S.C. 7401 et seq.) and—

(1)(A)(i) if the Secretary, after consultation with the Administrator determines, on the basis of information published by the Environmental Protection Agency pursuant to section 108(f)(1)(A) of the Clean Air Act (other than clause (xvi)) that the project or program is likely to contribute to—

(I) the attainment of a national ambient air quality standard; or

(II) the maintenance of a national ambient air quality standard in a maintenance area; and

(ii) a high level of effectiveness in reducing air pollution, in cases of projects or programs where sufficient information is available in the database established pursuant to subsection (h) to determine the relative effectiveness of such projects or programs; or,

(B) in any case in which such information is not available, if the Secretary, after such consultation, determines that the project or program is part of a program, method, or strategy described in such section 108(f)(1)(A);

(2) if the project or program is included in a State implementation plan that has been approved pursuant to the Clean Air Act and the project will have air quality benefits;

(3) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the project or program is likely to contribute to the attainment of a national ambient air quality standard, whether through reductions in vehicle miles traveled, fuel consumption, or through other factors;

(4) to establish or operate a traffic monitoring, management, and control facility or program, including advanced truck stop electrification systems, if the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the facility or program is likely to contribute to the attainment of a national ambient air quality standard;

(5) if the program or project improves traffic flow, including projects to improve signalization, construct high occupancy vehicle lanes, improve intersections, improve transportation systems management and operations that mitigate congestion and improve air quality, and implement intelligent transportation system strategies and such other projects that are eligible for assistance under this section on the day before the date of enactment of this paragraph;

(6) if the project or program involves the purchase of integrated, interoperable emergency communications equipment; or

(7) if the project or program is for—

(A) the purchase of diesel retrofits that are—

(i) for motor vehicles (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); or

(ii) published in the list under subsection (f)(2) for non-road vehicles and non-road engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) that are used in construction projects that are—

(I) located in nonattainment or maintenance areas for ozone, PM_{10}, or $PM_{2.5}$ (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

(II) funded, in whole or in part, under this title; or

(B) the conduct of outreach activities that are designed to provide information and technical assistance to the owners and operators of diesel equipment and vehicles regarding the purchase and installation of diesel retrofits.

No funds may be provided under this section for a project which will result in the construction of new capacity available to single occupant vehicles unless the project consists of a high occupancy vehicle facility available to single occupant vehicles only at other than peak travel times. In areas of a State which are nonattainment for ozone or carbon monoxide, or both, and for PM–10 resulting from transportation activities, the State may obligate such funds for any project or program under paragraph (1) or (2) without regard to any limitation of the Department of Transportation relating to the type of ambient air quality standard such project or program addresses.

(c) STATES RECEIVING MINIMUM APPORTIONMENT.—

(1) STATES WITHOUT A NONATTAINMENT AREA.—If a State does not have, and never has had, a nonattainment area designated under the Clean Air Act (42 U.S.C. 7401 et seq.), the State may use funds apportioned to the State under section 104(b)(2) for any project in the State that—

(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

(B) is eligible under the surface transportation program under section 133.

(2) STATES WITH A NONATTAINMENT AREA.—If a State has a nonattainment area or maintenance area and receives funds under section 104(b)(2)(D) above the amount of funds that the State would have received based on its nonattainment and maintenance area population under subparagraphs (B) and (C) of section 104(b)(2), the State may use that portion of the funds not based on its nonattainment and maintenance area population under subparagraphs (B) and (C) of section 104(b)(2) for any project in the State that—

(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

(B) is eligible under the surface transportation program under section 133.

(d) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with the requirements of sections 134 and 135 of this title.

(e) PARTNERSHIPS WITH NONGOVERNMENTAL ENTITIES.—

(1) IN GENERAL.—Notwithstanding any other provision of this title and in accordance with this subsection, a metropolitan planning organization, State transportation department, or other project sponsor may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project carried out under this section.

(2) FORMS OF PARTICIPATION BY ENTITIES.—Participation by an entity under paragraph (1) may consist of—

(A) ownership or operation of any land, facility, vehicle, or other physical asset associated with the project;

(B) cost sharing of any project expense;

(C) carrying out of administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

(D) any other form of participation approved by the Secretary.

(3) ALLOCATION TO ENTITIES.—A State may allocate funds apportioned under section 104(b)(2) to an entity described in paragraph (1).

(4) ALTERNATIVE FUEL PROJECTS.—In the case of a project that will provide for the use of alternative fuels by privately owned vehicles or vehicle fleets, activities eligible for funding under this subsection—

(A) may include the costs of vehicle refueling infrastructure, including infrastructure that would support the development, produc-

tion, and use of emerging technologies that reduce emissions of air pollutants from motor vehicles, and other capital investments associated with the project;

(B) shall include only the incremental cost of an alternative fueled vehicle, as compared to a conventionally fueled vehicle, that would otherwise be borne by a private party; and

(C) shall apply other governmental financial purchase contributions in the calculation of net incremental cost.

(5) PROHIBITION ON FEDERAL PARTICIPATION WITH RESPECT TO REQUIRED ACTIVITIES.—A Federal participation payment under this subsection may not be made to an entity to fund an obligation imposed under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other Federal law.

(f) COST-EFFECTIVE EMISSION REDUCTION GUIDANCE.—

(1) DEFINITIONS.—In this subsection, the following definitions apply:

(A) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(B) DIESEL RETROFIT.—The term ''diesel retrofit'' means a replacement, repowering, rebuilding, after treatment, or other technology, as determined by the Administrator.

(2) EMISSION REDUCTION GUIDANCE.—The Administrator, in consultation with the Secretary, shall publish a list of diesel retrofit technologies and supporting technical information for—

(A) diesel emission reduction technologies certified or verified by the Administrator, the California Air Resources Board, or any other entity recognized by the Administrator for the same purpose;

(B) diesel emission reduction technologies identified by the Administrator as having an application and approvable test plan for verification by the Administrator or the California Air Resources Board that is submitted not later that 18 months of the date of enactment of this subsection;

(C) available information regarding the emission reduction effectiveness and cost effectiveness of technologies identified in this paragraph, taking into consideration air quality and health effects.

(3) PRIORITY.—

(A) IN GENERAL.—States and metropolitan planning organizations shall give priority in distributing funds received for congestion mitigation and air quality projects and programs from apportionments derived from application of sections 104(b)(2)(B) and 104(b)(2)(C) to—

(i) diesel retrofits, particularly where necessary to facilitate contract compliance, and other cost-effective emission reduction activities, taking into consideration air quality and health effects; and

(ii) cost-effective congestion mitigation activities that provide air quality benefits.

(B) SAVINGS.—This paragraph is not intended to disturb the existing authorities and roles of governmental agencies in making final project selections.

(4) NO EFFECT ON AUTHORITY OR RESTRICTIONS.—Nothing in this subsection modifies or otherwise affects any authority or restriction established under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other law (other than provisions of this title relating to congestion mitigation and air quality).

(g) INTERAGENCY CONSULTATION.—The Secretary shall encourage States and metropolitan planning organizations to consult with State and local air quality agencies in nonattainment and maintenance areas on the estimated emission reductions from proposed congestion mitigation and air quality improvement programs and projects.

(h) EVALUATION AND ASSESSMENT OF PROJECTS.—

(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate and assess a representative sample of projects funded under the congestion mitigation and air quality program to—

(A) determine the direct and indirect impact of the projects on air quality and congestion levels; and

(B) ensure the effective implementation of the program.

(2) DATABASE.—Using appropriate assessments of projects funded under the congestion mitigation and air quality program and results from other research, the Secretary shall maintain and disseminate a cumulative database describing the impacts of the projects.

(3) CONSIDERATION.—The Secretary, in consultation with the Administrator, shall consider the recommendations and findings of the report submitted to Congress under section 1110(e) of the Transportation Equity Act for the 21st Century (112 Stat. 144), including recommendations and findings that would improve the operation and evaluation of the congestion mitigation and air quality improvement program.

(Added Pub. L. 93–87, title I, §142(a), Aug. 13, 1973, 87 Stat. 272; amended Pub. L. 102–240, title I, §1008(a), Dec. 18, 1991, 105 Stat. 1932; Pub. L. 102–388, title III, §380, Oct. 6, 1992, 106 Stat. 1562; Pub. L. 104–59, title III, §319(a)(1), (b), Nov. 28, 1995, 109 Stat. 588, 589; Pub. L. 104–88, title IV, §405(a)(2), (b), Dec. 29, 1995, 109 Stat. 956, 957; Pub. L. 105–178, title I, §1110(a)–(d)(1), June 9, 1998, 112 Stat. 142, 143; Pub. L. 109–59, title I, §1808(a)–(f), Aug. 10, 2005, 119 Stat. 1461–1463.)

REFERENCES IN TEXT

The Clean Air Act, referred to in subsecs. (b), (c)(1), (e)(5), and (f)(4), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. Section 108(f)(1)(A) of the Act is classified to section 7408(f)(1)(A) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The date of enactment of this paragraph, referred to in subsec. (b)(5), is the date of enactment of Pub. L. 105–178, which was approved June 9, 1998.

The date of enactment of this subsection, referred to in subsec. (f)(2)(B), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

Section 1110(e) of the Transportation Equity Act for the 21st Century, referred to in subsec. (h)(3), is section 1110(e) of Pub. L. 105–178, which is set out as a note below.

AMENDMENTS

2005—Subsec. (b). Pub. L. 109–59, § 1808(a), inserted ''or is required to prepare, and file with the Administrator of the Environmental Protection Agency, maintenance plans under the Clean Air Act (42 U.S.C. 7401 et seq.)'' after ''1997,'' in introductory provisions.

Subsec. (b)(1). Pub. L. 109–59, § 1808(b)(1), added par. (1) and struck out former par. (1) which read as follows:

''(A) if the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines, on the basis of information published by the Environmental Protection Agency pursuant to section 108(f)(1)(A) of the Clean Air Act (other than clause (xvi) of such section), that the project or program is likely to contribute to—

''(i) the attainment of a national ambient air quality standard; or

''(ii) the maintenance of a national ambient air quality standard in a maintenance area; or

''(B) in any case in which such information is not available, if the Secretary, after such consultation, determines that the project or program is part of a program, method, or strategy described in such section;''.

Subsec. (b)(4). Pub. L. 109–59, § 1808(b)(2)(A), inserted '', including advanced truck stop electrification systems,'' after ''control facility or program''.

Subsec. (b)(5). Pub. L. 109–59, § 1808(b)(3)(A), inserted ''improve transportation systems management and operations that mitigate congestion and improve air quality,'' after ''intersections,''.

Subsec. (b)(6), (7). Pub. L. 109–59, § 1808(b)(2)(B), (3)(B), (4), which directed addition of pars. (6) and (7) at end of subsec. (b), was executed by adding pars. (6) and (7) after par. (5) to reflect the probable intent of Congress.

Subsec. (c)(1). Pub. L. 109–59, § 1808(c)(1), substituted ''for any project in the State that—'' and subpars. (A) and (B) for ''for any project eligible under the surface transportation program under section 133.''

Subsec. (c)(2). Pub. L. 109–59, § 1808(c)(2), substituted ''for any project in the State that—'' and subpars. (A) and (B) for ''for any project in the State eligible under section 133.''

Subsecs. (f) to (h). Pub. L. 109–59, § 1808(d)–(f), added subsecs. (f) to (h).

1998—Subsec. (a). Pub. L. 105–178, § 1110(a), substituted ''shall establish and implement'' for ''shall establish''.

Subsec. (b). Pub. L. 105–178, § 1110(b)(1), in introductory provisions, substituted ''that is or was designated as a nonattainment area for ozone, carbon monoxide, or particulate matter under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) and classified pursuant to section 181(a), 186(a), 188(a), or 188(b) of the Clean Air Act (42 U.S.C. 7511(a), 7512(a), 7513(a), or 7513(b)) or is or was designated as a nonattainment area under such section 107(d) after December 31, 1997,'' for ''that was designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) during any part of fiscal year 1994''.

Subsec. (b)(1)(A). Pub. L. 105–178, § 1110(b)(2), substituted ''clause (xvi) of such section'' for ''clauses (xii) and (xvi) of such section''.

Subsec. (b)(1)(A)(ii). Pub. L. 105–178, § 1110(b)(3), substituted ''a maintenance area'' for ''an area that was designated as a nonattainment area but that was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d))''.

Subsec. (b)(5). Pub. L. 105–178, § 1110(b)(4)–(6), added par. (5).

Subsec. (c). Pub. L. 105–178, § 1110(c), added subsec. (c) and struck out heading and text of former subsec. (c). Text read as follows: ''If a State does not have a nonattainment area for ozone or carbon monoxide under the Clean Air Act located within its borders, the State may use funds apportioned to it under section 104(b)(2) for any project eligible for assistance under the surface transportation program.''

Subsec. (e). Pub. L. 105–178, § 1110(d)(1), added subsec. (e).

1995—Subsec. (b). Pub. L. 104–59, § 319(a)(1)(A), in introductory provisions, inserted ''if the project or program is for an area in the State that was designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) during any part of fiscal year 1994 and'' after ''project or program''.

Subsec. (b)(1)(A). Pub. L. 104–59, § 319(a)(1)(B), substituted ''contribute to—'' and cls. (i) and (ii) for ''contribute to the attainment of a national ambient air quality standard; or''.

Subsec. (b)(2). Pub. L. 104–59, § 319(b)(1), struck out ''or'' at end.

Subsec. (b)(3). Pub. L. 104–88, § 405(b)(1), inserted ''or'' after semicolon at end.

Pub. L. 104–59, § 319(b)(2), substituted a semicolon for period at end.

Subsec. (b)(4). Pub. L. 104–88, § 405(b)(2), substituted a period for ''; or'' at end.

Pub. L. 104–59, § 319(b)(3), as amended by Pub. L. 104–88, § 405(a)(2), added par. (4).

1992—Subsec. (b). Pub. L. 102–388 inserted at end ''In areas of a State which are nonattainment for ozone or carbon monoxide, or both, and for PM–10 resulting from transportation activities, the State may obligate such funds for any project or program under paragraph (1) or (2) without regard to any limitation of the Department of Transportation relating to the type of ambient air quality standard such project or program addresses.''

1991—Pub. L. 102–240 substituted section catchline for one which read: ''Truck lanes'' and amended text generally. Prior to amendment, text read as follows: ''The Secretary may approve as a project on any Federal-aid system the construction of exclusive or preferential truck lanes.''

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by section 405(b) of Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 701 of Title 49, Transportation.

Section 405(a) of Pub. L. 104–88 provided that the amendment made by that section is effective Nov. 28, 1995.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

DETERMINATION BY SECRETARY; WATER-PHASED HYDROCARBON FUEL EMULSION TECHNOLOGIES

Pub. L. 105–178, title I, § 1110(d)(2), June 9, 1998, 112 Stat. 144, as amended by Pub. L. 105–206, title IX, § 9002(g), July 22, 1998, 112 Stat. 836, provided that: ''For the purposes of section 149(e) of title 23, United States Code, the Secretary shall determine in accordance with the procedures specified in section 149(b) of such title whether water-phased hydrocarbon fuel emulsion technologies that consist of a hydrocarbon base and water in an amount not less than 20 percent by volume reduce emissions of hydrocarbon, particulate matter, carbon monoxide, or nitrogen oxide from motor vehicles.''

STUDY OF CMAQ PROGRAM

Pub. L. 105–178, title I, § 1110(e), June 9, 1998, 112 Stat. 144, provided that:

''(1) IN GENERAL.—The Secretary and the Administrator of the Environmental Protection Agency shall enter into arrangements with the National Academy of Sciences to complete, by not later than January 1, 2001, a study of the congestion mitigation and air quality

improvement program under section 149 of title 23, United States Code. The study shall, at a minimum—

''(A) evaluate the air quality impacts of emissions from motor vehicles;

''(B) evaluate the negative effects of traffic congestion, including the economic effects of time lost due to congestion;

''(C) determine the amount of funds obligated under the program and make a comprehensive analysis of the types of projects funded under the program;

''(D) evaluate the emissions reductions attributable to projects of various types that have been funded under the program;

''(E) assess the effectiveness, including the quantitative and nonquantitative benefits, of projects funded under the program and include, in the assessment, an estimate of the cost per ton of pollution reduction;

''(F) assess the cost effectiveness of projects funded under the program with respect to congestion mitigation;

''(G) compare—

''(i) the costs of achieving the air pollutant emissions reductions achieved under the program; to

''(ii) the costs that would be incurred if similar reductions were achieved by other measures, including pollution controls on stationary sources;

''(H) include recommendations on improvements, including other types of projects, that will increase the overall effectiveness of the program;

''(I) include recommendations on expanding the scope of the program to address traffic-related pollutants that, as of the date of the study, are not addressed by the program.

''(2) REPORT.—Not later than January 1, 2000, the National Academy of Sciences shall transmit to the Secretary, the Committee on Transportation and Infrastructure and the Committee on Commerce of the House of Representatives, and the Committee on Environment and Public Works of the Senate a report on the results of the study with recommendations for modifications to the congestion mitigation and air quality improvement program in light of the results of the study.

''(3) FUNDING.—Before making the apportionment of funds under section 104(b)(2) of title 23, United States Code, for each of fiscal years 1999 and 2000, the Secretary shall deduct from the amount to be apportioned under such section for such fiscal year, and make available, $500,000 for such fiscal year to carry out this subsection.''

EFFECT OF LIMITATION ON APPORTIONMENT

Notwithstanding any other provision of law, for each of fiscal years 1996 and 1997, amendment by section 319(a)(1) of Pub. L. 104–59 not to affect any apportionment adjustments under section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. 102–240, see section 319(c) of Pub. L. 104–59, set out as a note under section 104 of this title.

VALUE PRICING PILOT PROGRAM

Pub. L. 102–240, title I, §1012(b), Dec. 18, 1991, 105 Stat. 1938, as amended by Pub. L. 104–59, title III, §325(e), Nov. 28, 1995, 109 Stat. 592; Pub. L. 105–178, title I, §1216(a), June 9, 1998, 112 Stat. 211; Pub. L. 105–206, title IX, §9006(b), July 22, 1998, 112 Stat. 848; Pub. L. 109–59, title I, §1604(a), Aug. 10, 2005, 119 Stat. 1249, provided that:

''(1) The Secretary shall solicit the participation of State and local governments and public authorities for one or more value pricing pilot programs. The Secretary may enter into cooperative agreements with as many as 15 such State or local governments or public authorities to establish, maintain, and monitor value pricing programs.

''(2) Notwithstanding section 129 of title 23, United States Code, the Federal share payable for such programs shall be 80 percent. The Secretary shall fund all preimplementation costs and project design, and all of the development and other start up costs of such projects, including salaries and expenses, for a period of at least 1 year, and thereafter until such time that sufficient revenues are being generated by the program to fund its operating costs without Federal participation, except that the Secretary may not fund the preimplementation or implementation costs of any project for more than 3 years.

''(3) Revenues generated by any pilot project under this subsection must be applied to projects eligible under such title.

''(4) Notwithstanding sections 129 and 301 of title 23, United States Code, the Secretary shall allow the use of tolls on the Interstate System as part of any value pricing pilot program under this subsection.

''(5) The Secretary shall monitor the effect of such programs for a period of at least 10 years, and shall report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives every 2 years on the effects such programs are having on driver behavior, traffic volume, transit ridership, air quality, and availability of funds for transportation programs.

''(6) HOV PASSENGER REQUIREMENTS.—Notwithstanding section 102(a) of title 23, United States Code, a State may permit vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes if the vehicles are part of a value pricing pilot program under this subsection.

''(7) FINANCIAL EFFECTS ON LOW-INCOME DRIVERS.—Any value pricing pilot program under this subsection shall include, if appropriate, an analysis of the potential effects of the pilot program on low-income drivers and may include mitigation measures to deal with any potential adverse financial effects on low-income drivers.

''(8) FUNDING.—

''(A) IN GENERAL.—There are authorized to be appropriated to the Secretary from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection—

''(i) for fiscal year 2005, $11,000,000; and

''(ii) for each of fiscal years 2006 through 2009, $12,000,000.

''(B) SET-ASIDE FOR PROJECTS NOT INVOLVING HIGHWAY TOLLS.—Of the amounts made available to carry out this subsection, $3,000,000 for each of fiscal years 2006 through 2009 shall be available only for congestion pricing pilot projects that do not involve highway tolls.

''(C) AVAILABILITY.—Funds allocated by the Secretary to a State under this subsection shall remain available for obligation by the State for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

''(D) USE OF UNALLOCATED FUNDS.—If the total amount of funds made available from the Highway Trust Fund to carry out this subsection for fiscal year 1998 and fiscal years thereafter but not allocated exceeds $8,000,000 as of September 30 of any year, the excess amount—

''(i) shall be apportioned in the following fiscal year by the Secretary to all States in accordance with section 104(b)(3) of title 23, United States Code;

''(ii) shall be considered to be a sum made available for expenditure on the surface transportation program, except that the amount shall not be subject to section 133(d) of such title; and

''(iii) shall be available for any purpose eligible for funding under section 133 of such title.

''(C) [probably should be (E)] CONTRACT AUTHORITY.—Funds authorized to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project under this subsection and the availability of funds authorized to carry out this subsection shall be determined in accordance with this subsection.''

[§ 150. Repealed. Pub. L. 105–178, title I, § 1103(*l*)(5), as added Pub. L. 105–206, title IX, § 9002(c)(1), July 22, 1998, 112 Stat. 834]

Section, added Pub. L. 93–87, title I, § 157(a), Aug. 13, 1973, 87 Stat. 277; amended Pub. L. 97–424, title I, § 124, Jan. 6, 1983, 96 Stat. 2113, related to allocation of urban system funds.

EFFECTIVE DATE OF REPEAL

Repeal effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, see section 9016 of Pub. L. 105–206, set out as an Effective Date of 1998 Amendment note under section 101 of this title.

§ 151. National bridge inspection program

(a) NATIONAL BRIDGE INSPECTION STANDARDS.—The Secretary, in consultation with the State transportation departments and interested and knowledgeable private organizations and individuals, shall establish national bridge inspection standards for the proper safety inspection and evaluation of all highway bridges.

(b) MINIMUM REQUIREMENTS OF INSPECTION STANDARDS.—The standards established under subsection (a) shall, at a minimum—

(1) specify, in detail, the method by which such inspections shall be carried out by the States;

(2) establish the maximum time period between inspections;

(3) establish the qualification for those charged with carrying out the inspections;

(4) require each State to maintain and make available to the Secretary upon request—

(A) written reports on the results of highway bridge inspections together with notations of any action taken pursuant to the findings of such inspections; and

(B) current inventory data for all highway bridges reflecting the findings of the most recent highway bridge inspections conducted; and

(5) establish a procedure for national certification of highway bridge inspectors.

(c) TRAINING PROGRAM FOR BRIDGE INSPECTORS.—The Secretary, in cooperation with the State transportation departments, shall establish a program designed to train appropriate governmental employees to carry out highway bridge inspections. Such training program shall be revised from time to time to take into account new and improved techniques.

(d) AVAILABILITY OF FUNDS.—To carry out this section, the Secretary may use funds made available pursuant to the provisions of section 104(a), section 502, and section 144 of this title.

(Added Pub. L. 100–17, title I, § 125(a), Apr. 2, 1987, 101 Stat. 166; amended Pub. L. 105–178, title I, § 1212(a)(2)(A)(ii), title V, § 5119(e), June 9, 1998, 112 Stat. 193, 452.)

PRIOR PROVISIONS

A prior section 151, added Pub. L. 93–87, title II, § 205(a), Aug. 13, 1973, 87 Stat. 284; amended Pub. L. 94–280, title II, § 207, May 5, 1976, 90 Stat. 454; Pub. L. 95–599, title I, § 127, Nov. 6, 1978, 92 Stat. 2707; Pub. L. 96–470, title II, § 209(c), Oct. 19, 1980, 94 Stat. 2245; Pub. L. 97–375, title I, § 111(a), Dec. 21, 1982, 96 Stat. 1821, related to a pavement marking demonstration program, prior to repeal by Pub. L. 100–17, title I, § 125(a), Apr. 2, 1987, 101 Stat. 166.

AMENDMENTS

1998—Subsecs. (a), (c). Pub. L. 105–178, § 1212(a)(2)(A)(ii), substituted ''State transportation departments'' for ''State highway departments''.

Subsec. (d). Pub. L. 105–178, § 5119(e), substituted ''section 502,'' for ''section 307(a),''.

§ 152. Hazard elimination program

(a) IN GENERAL.—

(1) PROGRAM.—Each State shall conduct and systematically maintain an engineering survey of all public roads to identify hazardous locations, sections, and elements, including roadside obstacles and unmarked or poorly marked roads, which may constitute a danger to motorists, bicyclists, and pedestrians, assign priorities for the correction of such locations, sections, and elements, and establish and implement a schedule of projects for their improvement.

(2) HAZARDS.—In carrying out paragraph (1), a State may, at its discretion—

(A) identify, through a survey, hazards to motorists, bicyclists, pedestrians, and users of highway facilities; and

(B) develop and implement projects and programs to address the hazards.

(b) The Secretary may approve as a project under this section any safety improvement project, including a project described in subsection (a).

(c) Funds authorized to carry out this section shall be available for expenditure on—

(1) any public road;

(2) any public surface transportation facility or any publicly owned bicycle or pedestrian pathway or trail; or

(3) any traffic calming measure.

(d) The Federal share payable on account of any project under this section shall be 90 percent of the cost thereof.

(e) Funds authorized to be appropriated to carry out this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under section 104(b), except that the Secretary is authorized to waive provisions he deems inconsistent with the purposes of this section.

(f) Each State shall establish an evaluation process approved by the Secretary, to analyze and assess results achieved by safety improvement projects carried out in accordance with procedures and criteria established by this section. Such evaluation process shall develop cost-benefit data for various types of corrections and treatments which shall be used in setting priorities for safety improvement projects.

(g) Each State shall report to the Secretary of Transportation not later than December 30 of each year, on the progress being made to implement safety improvement projects for hazard elimination and the effectiveness of such improvements. Each State report shall contain an assessment of the cost of, and safety benefits derived from, the various means and methods used to mitigate or eliminate hazards and the previous and subsequent accident experience at these locations. The Secretary of Transpor-

tation shall submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives not later than April 1 of each year on the progress being made by the States in implementing the hazard elimination program (including but not limited to any projects for pavement marking). The report shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, road system, means and methods used, and the previous and subsequent accident experience at improved locations. In addition, the Secretary's report shall analyze and evaluate each State program, identify any State found not to be in compliance with the schedule of improvements required by subsection (a) and include recommendations for future implementation of the hazard elimination program.

(h) For the purposes of this section the term ''State'' shall have the meaning given it in section 401 of this title.

(Added Pub. L. 93–87, title II, § 209(a), Aug. 13, 1973, 87 Stat. 286; amended Pub. L. 94–280, title I, § 131, May 5, 1976, 90 Stat. 441; Pub. L. 95–599, title I, § 168(a), Nov. 6, 1978, 92 Stat. 2722; Pub. L. 96–106, § 10(b), Nov. 9, 1979, 93 Stat. 798; Pub. L. 97–375, title II, § 210(b), Dec. 21, 1982, 96 Stat. 1826; Pub. L. 97–424, title I, § 125, Jan. 6, 1983, 96 Stat. 2113; Pub. L. 100–17, title I, § 133(b)(12), Apr. 2, 1987, 101 Stat. 172; Pub. L. 104–59, title III, § 325(c), Nov. 28, 1995, 109 Stat. 592; Pub. L. 105–178, title I, § 1401, June 9, 1998, 112 Stat. 235.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–178, § 1401(1), inserted subsec. heading, designated existing provisions as par. (1) and inserted par. heading, realigned margins, substituted ''motorists, bicyclists, and pedestrians'' for ''motorists and pedestrians'', and added par. (2).

Subsec. (b). Pub. L. 105–178, § 1401(2), substituted ''safety improvement project, including a project described in subsection (a)'' for ''highway safety improvement project''.

Subsec. (c). Pub. L. 105–178, § 1401(3), substituted ''on—

''(1) any public road;

''(2) any public surface transportation facility or any publicly owned bicycle or pedestrian pathway or trail; or

''(3) any traffic calming measure'' for ''on any public road (other than a highway on the Interstate System)''.

Subsec. (e). Pub. L. 105–178, § 1401(4), struck out ''apportioned to the States as provided in section 402(c) of this title. Such funds shall be'' before ''available for obligation'' and substituted ''section 104(b)'' for ''section 104(b)(1)''.

Subsecs. (f), (g). Pub. L. 105–178, § 1401(5), substituted ''safety improvement projects'' for ''highway safety improvement projects'' wherever appearing.

1995—Subsec. (g). Pub. L. 104–59 substituted ''Committee on Transportation and Infrastructure'' for ''Committee on Public Works and Transportation''.

1987—Subsec. (g). Pub. L. 100–17 substituted ''the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives'' for ''the Congress''.

1983—Subsec. (c). Pub. L. 97–424 substituted provision that funds authorized to carry out this section shall be available for expenditure on any public road (other than a highway on the Interstate System), for provision that funds authorized to carry out this section would be available solely for expenditure for projects on any Federal-aid system (other than the Interstate System) except in the Virgin Islands, Guam, and American Samoa.

1982—Subsec. (g). Pub. L. 97–375 inserted ''(including but not limited to any projects for pavement marking)'' after ''implementing the hazard elimination program''.

1979—Subsec. (g). Pub. L. 96–106 substituted ''December 30'' for ''September 30'' and ''April 1'' for ''January 1''.

1978—Subsec. (a). Pub. L. 95–599 substituted ''public roads'' for ''highways'' and inserted provisions relating to identification of hazardous sections and elements.

Subsec. (b). Pub. L. 95–599 substituted provisions relating to approval of highway safety improvement projects by the Secretary for provisions authorizing appropriations for fiscal years ending June 30, 1974 through June 30, 1976.

Subsec. (c). Pub. L. 95–599 reenacted subsec. (c) without substantive change.

Subsec. (d). Pub. L. 95–599 substituted provisions prescribing the Federal share payable on account of any project under this section for provisions relating to apportionment of funds made available under subsec. (b) to the States. See subsec. (e) of this section.

Subsec. (e). Pub. L. 95–599 substituted provisions relating to apportionment of funds to the States under this section for provisions relating to progress reports required of the States under this section. See subsec. (g).

Subsecs. (f) to (h). Pub. L. 95–599 added subsecs. (f) and (g) and redesignated former subsec. (f) as (h).

1976—Subsec. (f). Pub. L. 94–280 added subsec. (f).

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (g) of this section relating to the requirement that the Secretary of Transportation submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives not later than April 1 of each year, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 135 of House Document No. 103–7.

§ 153. Use of safety belts and motorcycle helmets

(a) AUTHORITY TO MAKE GRANTS.—The Secretary may make grants to a State in a fiscal year in accordance with this section if the State has in effect in such fiscal year—

(1) a law which makes unlawful throughout the State the operation of a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet; and

(2) a law which makes unlawful throughout the State the operation of a passenger vehicle whenever an individual in a front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly fastened about the individual's body.

(b) USE OF GRANTS.—A grant made to a State under this section shall be used to adopt and implement a traffic safety program to carry out the following purposes:

(1) EDUCATION.—To educate the public about motorcycle and passenger vehicle safety and motorcycle helmet, safety belt, and child restraint system use and to involve public health education agencies and other related agencies in these efforts.

(2) TRAINING.—To train law enforcement officers in the enforcement of State laws described in subsection (a).

(3) MONITORING.—To monitor the rate of compliance with State laws described in subsection (a).

(4) ENFORCEMENT.—To enforce State laws described in subsection (a).

(c) MAINTENANCE OF EFFORT.—A grant may not be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for any traffic safety program described in subsection (b) at or above the average level of such expenditures in the State's 2 fiscal years preceding the date of the enactment of this section.

(d) FEDERAL SHARE.—A State may not receive a grant under this section in more than 3 fiscal years. The Federal share payable for a grant under this section shall not exceed—

(1) in the first fiscal year the State receives a grant, 75 percent of the cost of implementing in such fiscal year a traffic safety program described in subsection (b);

(2) in the second fiscal year the State receives a grant, 50 percent of the cost of implementing in such fiscal year such traffic safety program; and

(3) in the third fiscal year the State receives a grant, 25 percent of the cost of implementing in such fiscal year such traffic safety program.

(e) MAXIMUM AGGREGATE AMOUNT OF GRANTS.—The aggregate amount of grants made to a State under this section shall not exceed 90 percent of the amount apportioned to such State for fiscal year 1990 under section 402.

(f) ELIGIBILITY FOR GRANTS.—

(1) GENERAL RULE.—A State is eligible in a fiscal year for a grant under this section only if the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State implements in such fiscal year a traffic safety program described in subsection (b).

(2) SECOND-YEAR GRANTS.—A State is eligible for a grant under this section in a fiscal year succeeding the first fiscal year in which a State receives a grant under this section only if the State in the preceding fiscal year—

(A) had in effect at all times a State law described in subsection (a)(1) and achieved a rate of compliance with such law of not less than 75 percent; and

(B) had in effect at all times a State law described in subsection (a)(2) and achieved a rate of compliance with such law of not less than 50 percent.

(3) THIRD-YEAR GRANTS.—A State is eligible for a grant under this section in a fiscal year succeeding the second fiscal year in which a State receives a grant under this section only if the State in the preceding fiscal year—

(A) had in effect at all times a State law described in subsection (a)(1) and achieved a rate of compliance with such law of not less than 85 percent; and

(B) had in effect at all times a State law described in subsection (a)(2) and achieved a rate of compliance with such law of not less than 70 percent.

(g) MEASUREMENTS OF RATES OF COMPLIANCE.—For the purposes of subsections (f)(2) and (f)(3), a State shall measure compliance with State laws described in subsection (a) using methods which conform to guidelines issued by the Secretary ensuring that such measurements are accurate and representative.

(h) PENALTY.—

(1) FISCAL YEAR 1994.—If, at any time in fiscal year 1994, a State does not have in effect a law described in subsection (a)(2), the Secretary shall transfer 1½ percent of the funds apportioned to the State for fiscal year 1995 under each of subsections (b)(1), (b)(2), and (b)(3) of section 104 of this title to the apportionment of the State under section 402 of this title.

(2) THEREAFTER.—If, at any time in a fiscal year beginning after September 30, 1994, a State does not have in effect a law described in subsection (a)(2), the Secretary shall transfer 3 percent of the funds apportioned to the State for the succeeding fiscal year under each of subsections (b)(1), (b)(2), and (b)(3) of section 104 of this title to the apportionment of the State under section 402 of this title.

(3) FEDERAL SHARE.—The Federal share of the cost of any project carried out under section 402 with funds transferred to the apportionment of section 402 shall be 100 percent.

(4) TRANSFER OF OBLIGATION AUTHORITY.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall allocate an amount of obligation authority distributed for such fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out only projects under section 402 which is determined by multiplying—

(A) the amount of funds transferred to the apportionment of section 402 of the State under section 402 for such fiscal year; by

(B) the ratio of the amount of obligation authority distributed for such fiscal year to the State for Federal-aid highways and highway safety construction programs to the total of the sums apportioned to the State for Federal-aid highways and highway safety construction (excluding sums not subject to any obligation limitation) for such fiscal year.

(5) LIMITATION ON APPLICABILITY OF HIGHWAY SAFETY OBLIGATIONS.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs carried out by the Federal Highway Administration under section 402 shall apply to funds transferred under this subsection to the apportionment of section 402.

(i) DEFINITIONS.—For the purposes of this section, the following definitions apply:

(1) MOTORCYCLE.—The term ''motorcycle'' means a motor vehicle which is designed to travel on not more than 3 wheels in contact with the surface.

(2) MOTOR VEHICLE.—The term ''motor vehicle'' has the meaning such term has under section 154[1] of this title.

[1] See References in Text note below.

(3) PASSENGER VEHICLE.—The term ''passenger vehicle'' means a motor vehicle which is designed for transporting 10 individuals or less, including the driver, except that such term does not include a vehicle which is constructed on a truck chassis, a motorcycle, a trailer, or any motor vehicle which is not required on the date of the enactment of this section under a Federal motor vehicle safety standard to be equipped with a belt system.

(4) SAFETY BELT.—The term ''safety belt'' means—

(A) with respect to open-body passenger vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

(B) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap shoulder belts.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $17,000,000 for fiscal year 1992. From sums made available to carry out section 402 of this title, the Secretary shall make available $17,000,000 for fiscal year 1992 and $24,000,000 for each of fiscal years 1993 and 1994 to carry out this section.

(k) APPLICABILITY OF CHAPTER 1 PROVISIONS.—All provisions of this chapter that are applicable to National Highway System funds, other than provisions relating to the apportionment formula and provisions limiting the expenditures of such funds to Federal-aid systems, shall apply to funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section and except that sums authorized by this section shall remain available until expended.

(Added Pub. L. 102–240, title I, § 1031(a)(1), Dec. 18, 1991, 105 Stat. 1970; amended Pub. L. 104–59, title II, § 205(e), Nov. 28, 1995, 109 Stat. 577.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsecs. (c) and (i)(3), is the date of enactment of Pub. L. 102–240, which was approved Dec. 18, 1991.

Section 154 of this title, referred to in subsec. (i)(2), was repealed by Pub. L. 104–59, title II, § 205(d)(1)(B), Nov. 28, 1995, 109 Stat. 577.

PRIOR PROVISIONS

A prior section 153, added Pub. L. 93–87, title II, § 210(a), Aug. 13, 1973, 87 Stat. 287; amended Pub. L. 94–280, title I, § 131, May 5, 1976, 90 Stat. 441, related to a program for the elimination of roadside obstacles, prior to repeal by Pub. L. 95–599, title I, § 168(b), Nov. 6, 1978, 92 Stat. 2723.

AMENDMENTS

1995—Subsec. (h)(1), (2). Pub. L. 104–59 struck out ''a law described in subsection (a)(1) and'' after ''have in effect''.

EFFECTIVE DATE OF 1995 AMENDMENT

Section 205(e) of Pub. L. 104–59 provided that the amendment made by that section is effective Sept. 30, 1995.

EFFECTIVE DATE

Section effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as an Effective Date of 1991 Amendment note under section 104 of this title.

STUDY OF BENEFITS OF SAFETY BELTS AND MOTORCYCLE HELMETS TO INDIVIDUALS INVOLVED IN CRASHES

Section 1031(b) of Pub. L. 102–240 provided that:

''(1) IN GENERAL.—The Secretary shall conduct a study or studies to determine the benefits of safety belt use and motorcycle helmet use for individuals involved in motor vehicle crashes and motorcycle crashes, collecting and analyzing data from regional trauma systems regarding differences in the following: the severity of injuries; acute, rehabilitative and long-term medical costs, including the sources of reimbursement and the extent to which these sources cover actual costs; government, employer, and other costs; and mortality and morbidity outcomes. The study shall cover a representative period after January 1, 1990.

''(2) REPORT.—The Secretary shall make public a proposed report on the results of the study or studies conducted under this subsection, provide a period of 90 days for public comment on such report, consider such comments, and transmit to Congress a report on the results of such study or studies, together with a summary of such comments, not later than 40 months after the funds for such study are made available by the Secretary.

''(3) FUNDING.—Of the amounts authorized to be appropriated for fiscal year 1992 or 1993 (or both) to carry out section 153 of title 23, United States Code, the Secretary shall make available $5,000,000 in the aggregate in such fiscal years to carry out this subsection. Such funds shall remain available until expended.''

§ 154. Open container requirements

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ALCOHOLIC BEVERAGE.—The term ''alcoholic beverage'' has the meaning given the term in section 158(c).

(2) MOTOR VEHICLE.—The term ''motor vehicle'' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated exclusively on a rail or rails.

(3) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term ''open alcoholic beverage container'' means any bottle, can, or other receptacle—

(A) that contains any amount of alcoholic beverage; and

(B)(i) that is open or has a broken seal; or

(ii) the contents of which are partially removed.

(4) PASSENGER AREA.—The term ''passenger area'' shall have the meaning given the term by the Secretary by regulation.

(b) OPEN CONTAINER LAWS.—

(1) IN GENERAL.—For the purposes of this section, each State shall have in effect a law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the State.

(2) MOTOR VEHICLES DESIGNED TO TRANSPORT MANY PASSENGERS.—For the purposes of this section, if a State has in effect a law that

makes unlawful the possession of any open alcoholic beverage container by the driver (but not by a passenger)—

(A) in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation; or

(B) in the living quarters of a house coach or house trailer,

the State shall be deemed to have in effect a law described in this subsection with respect to such a motor vehicle for each fiscal year during which the law is in effect.

(c) TRANSFER OF FUNDS.—

(1) FISCAL YEARS 2001 AND 2002.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402—

(A) to be used for alcohol-impaired driving countermeasures; or

(B) to be directed to State and local law enforcement agencies for enforcement of laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including the purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures, dedicated to enforcement of the laws (including regulations).

(2) FISCAL YEAR 2003 AND FISCAL YEARS THEREAFTER.—On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall transfer an amount equal to 3 percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402 to be used or directed as described in subparagraph (A) or (B) of paragraph (1).

(3) USE FOR HAZARD ELIMINATION PROGRAM.—A State may elect to use all or a portion of the funds transferred under paragraph (1) or (2) for activities eligible under section 148.

(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out with funds transferred under paragraph (1) or (2), or used under paragraph (3), shall be 100 percent.

(5) DERIVATION OF AMOUNT TO BE TRANSFERRED.—The amount to be transferred under paragraph (1) or (2) may be derived from one or more of the following:

(A) The apportionment of the State under section 104(b)(1).

(B) The apportionment of the State under section 104(b)(3).

(C) The apportionment of the State under section 104(b)(4).

(6) TRANSFER OF OBLIGATION AUTHORITY.—

(A) IN GENERAL.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

(B) AMOUNT.—The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year, by

(ii) the ratio that—

(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs, bears to

(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

(7) LIMITATION ON APPLICABILITY OF OBLIGATION LIMITATION.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under such section.

(Added Pub. L. 105–178, title I, § 1405(a), as added Pub. L. 105–206, title IX, § 9005(a), July 22, 1998, 112 Stat. 843; amended Pub. L. 109–59, title I, § 1401(a)(3)(C), Aug. 10, 2005, 119 Stat. 1225.)

PRIOR PROVISIONS

A prior section 154, added Pub. L. 93–643, § 114(a), Jan. 4, 1975, 88 Stat. 2286; amended Pub. L. 95–599, title II, § 205, Nov. 6, 1978, 92 Stat. 2729; Pub. L. 97–35, title XI, § 1108, Aug. 13, 1981, 95 Stat. 626; Pub. L. 100–17, title I, § 174, Apr. 2, 1987, 101 Stat. 218; Pub. L. 102–240, title I, § 1029(a), (b), (e), (g), Dec. 18, 1991, 105 Stat. 1968–1970, established the national maximum speed limit, prior to repeal by Pub. L. 104–59, title II, § 205(d)(1)(B), (3), Nov. 28, 1995, 109 Stat. 577, applicable to State on 10th day following Nov. 28, 1995, except that if legislature was not in session on such date and chief executive officer declared before such date that legislature was not in session and that State preferred applicability date that was after date on which legislature would convene, applicable to State on 60th day following date on which legislature would next convene.

AMENDMENTS

2005—Subsec. (c)(3). Pub. L. 109–59 substituted ''148'' for ''152''.

EFFECTIVE DATE

Section effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, see section 9016 of Pub. L. 105–206, set out as an Effective Date of 1998 Amendment note under section 101 of this title.

§ 155. Access highways to public recreation areas on certain lakes

(a) The Secretary is authorized to construct or reconstruct access highways to public recreation areas on lakes in order to accommodate present and projected traffic density. The Sec-

retary shall develop guidelines and standards for the designation of routes and the allocation of funds for the purpose of this section which shall include the following criteria:

(1) No portion of any access highway constructed or reconstructed under this section shall exceed thirty-five miles in length nor shall any portion of such highway be located more than thirty-five miles from the nearest part of such recreation area.

(2) Routes shall be designated by the Secretary on the recommendation of the State and responsible local officials, after consultation with the head of the Federal agency (if any) having jurisdiction over the public recreation area involved.

(b) The Federal share payable on account of any project authorized pursuant to this section shall not exceed 75 per centum of the cost of construction or reconstruction of such project.

(c) All of the provisions of this title applicable to highways on the Federal-aid system (other than the Interstate System) determined appropriate by the Secretary, except those provisions which the Secretary determines are inconsistent with this section, shall apply to any highway designated under this section which is not a part of the Federal-aid system when so designated.

(d) For the purpose of this section the term ''lake'' means any lake, reservoir, pool, or other body of water resulting from the construction of any lock, dam, or similar structure by the Corps of Engineers, Department of the Army, or the Bureau of Reclamation, Department of the Interior, or the Tennessee Valley Authority, and any multipurpose lake resulting from construction assistance of the Soil Conservation Service, Department of Agriculture. This section shall apply to lakes heretofore or hereafter constructed or authorized for construction.

(e) There is authorized to be appropriated not to exceed $25,000,000 for the fiscal year 1976 to carry out this section. Amounts authorized by this subsection for a fiscal year shall be available for that fiscal year and for the two succeeding fiscal years.

(Added Pub. L. 93–643, §115(a), Jan. 4, 1975, 88 Stat. 2287; amended Pub. L. 95–599, title I, §129(e), Nov. 6, 1978, 92 Stat. 2708.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95–599 substituted ''75 per centum'' for ''70 per centum''.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–599 effective with respect to obligations incurred after Nov. 6, 1978, see section 129(h) of Pub. L. 95–599, set out as a note under section 120 of this title.

APPROPRIATIONS; RESCISSION OF APPROPRIATIONS AUTHORIZATION

Pub. L. 94–134, title I, §101, Nov. 24, 1975, 89 Stat. 703, appropriated in part: ''For necessary expenses not otherwise provided, to carry out the provisions of section 115(a), 'Federal-Aid Highway Amendments of 1974 [this section]'; $10,000,000, to remain available until September 30 1978: Provided, That any authority to incur obligations granted by section 115 of the Federal-Aid Highway Amendments of 1974 [subsec. (e) of this section] is hereby rescinded.''

§156. Proceeds from the sale or lease of real property

(a) MINIMUM CHARGE.—Subject to section 142(f), a State shall charge, at a minimum, fair market value for the sale, use, lease, or lease renewal (other than for utility use and occupancy or for a transportation project eligible for assistance under this title) of real property acquired with Federal assistance made available from the Highway Trust Fund (other than the Mass Transit Account).

(b) EXCEPTIONS.—The Secretary may grant an exception to the requirement of subsection (a) for a social, environmental, or economic purpose.

(c) USE OF FEDERAL SHARE OF INCOME.—The Federal share of net income from the revenues obtained by a State under subsection (a) shall be used by the State for projects eligible under this title.

(Added Pub. L. 100–17, title I, §126(a), Apr. 2, 1987, 101 Stat. 167; amended Pub. L. 102–240, title I, §1027(f), Dec. 18, 1991, 105 Stat. 1967; Pub. L. 105–178, title I, §1303(a), June 9, 1998, 112 Stat. 227.)

PRIOR PROVISIONS

A prior section 156, added Pub. L. 94–280, title I, §132(a), May 5, 1976, 90 Stat. 441, authorized the Secretary to construct or reconstruct any public highway or highway bridge across any Federal public works project, specified conditions under which such work may be done, and authorized appropriations for such work of $100,000,000 to be available in the fiscal year in which appropriated and for the two succeeding fiscal years, prior to repeal by Pub. L. 100–17, title I, §126(a), Apr. 2, 1987, 101 Stat. 167.

AMENDMENTS

1998—Pub. L. 105–178 amended section catchline and text generally. Prior to amendment, text read as follows: ''Subject to section 142(f), States shall charge, as a minimum, fair market value, with exceptions granted at the discretion of the Secretary for social, environmental, and economic mitigation purposes, for the sale, use, lease, or lease renewals (other than for utility use and occupancy or for transportation projects eligible for assistance under this title) of right-of-way airspace acquired as a result of a project funded in whole or in part with Federal assistance made available from the Highway Trust Fund (other than the Mass Transit Account). This section applies to new airspace usage proposals, renewals of prior agreements, arrangements, or leases entered into by the State after the date of the enactment of the Federal-Aid Highway Act of 1987. The Federal share of net income from the revenues obtained by the State for sales, uses, or leases (including lease renewals) under this section shall be used by the State for projects eligible under this title.''

1991—Pub. L. 102–240 substituted ''Subject to section 142(f), States shall'' for ''States shall''.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as a note under section 104 of this title.

§157. Safety incentive grants for use of seat belts

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) MOTOR VEHICLE.—The term ''motor vehicle'' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line.

(2) MULTIPURPOSE PASSENGER MOTOR VEHICLE.—The term ''multipurpose passenger motor vehicle'' means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed on a truck chassis or is constructed with special features for occasional off-road operation.

(3) NATIONAL AVERAGE SEAT BELT USE RATE.—The term ''national average seat belt use rate'' means, in the case of each of calendar years 1996 through 2003, the national average seat belt use rate for that year, as determined by the Secretary.

(4) PASSENGER CAR.—The term ''passenger car'' means a motor vehicle with motive power (except a multipurpose passenger motor vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

(5) PASSENGER MOTOR VEHICLE.—The term ''passenger motor vehicle'' means a passenger car or a multipurpose passenger motor vehicle.

(6) SAVINGS TO THE FEDERAL GOVERNMENT.—The term ''savings to the Federal Government'' means the amount of Federal budget savings relating to Federal medical costs (including savings under the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.)), as determined by the Secretary.

(7) SEAT BELT.—The term ''seat belt'' means—

(A) with respect to an open-body passenger motor vehicle, including a convertible, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

(B) with respect to any other passenger motor vehicle, an occupant restraint system consisting of integrated lap and shoulder belts.

(8) STATE SEAT BELT USE RATE.—The term ''State seat belt use rate'' means the rate of use of seat belts in passenger motor vehicles in a State, as measured and submitted to the Secretary—

(A) for each of calendar years 1996 and 1997, by the State, as weighted by the Secretary to ensure national consistency in methods of measurement (as determined by the Secretary); and

(B) for each of calendar years 1998 through 2003, by the State in a manner consistent with the criteria established by the Secretary under subsection (e).

(b) DETERMINATIONS BY THE SECRETARY.—Not later than September 1, 1998, and September 1 of each calendar year thereafter through September 1, 2005, the Secretary shall determine—

(1)(A) which States had, for each of the previous calendar years (in this subsection referred to as the ''previous calendar year'') and the year preceding the previous calendar year, a State seat belt use rate greater than the national average seat belt use rate for that year; and

(B) in the case of each State described in subparagraph (A), the amount that is equal to the savings to the Federal Government due to the amount by which the State seat belt use rate for the previous calendar year exceeds the national average seat belt use rate for that year; and

(2) in the case of each State that is not a State described in paragraph (1)(A)—

(A) the base seat belt use rate of the State, which shall be equal to the highest State seat belt use rate for the State for any calendar year during the period of 1996 through the calendar year preceding the previous calendar year; and

(B) the amount that is equal to the savings to the Federal Government due to any increase in the State seat belt use rate for the previous calendar year over the base seat belt use rate determined under subparagraph (A).

(c) ALLOCATIONS.—

(1) STATES WITH GREATER THAN THE NATIONAL AVERAGE SEAT BELT USE RATE.—Not later than October 1, 1998, and each October 1 thereafter through October 1, 2004, the Secretary shall allocate to each State described in subsection (b)(1)(A) an amount equal to the amount determined for the State under subsection (b)(1)(B).

(2) OTHER STATES.—Not later than October 1, 1998, and each October 1 thereafter through October 1, 2004, the Secretary shall allocate to each State described in subsection (b)(2) an amount equal to the amount determined for the State under subsection (b)(2)(B).

(d) USE OF AMOUNTS.—For each fiscal year, each State that is allocated an amount under this section shall use the amount for projects eligible for assistance under this title.

(e) CRITERIA.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish criteria for the measurement of State seat belt use rates by States to ensure that the measurements are accurate and representative.

(f) INNOVATIVE SEAT BELT PROJECT ALLOCATIONS.—

(1) IN GENERAL.—The Secretary shall use amounts made available under subsection (g)(3) to make allocations to States to carry out innovative projects to promote increased seat belt use rates.

(2) DETERMINATION OF ELIGIBILITY.—To be eligible to receive an allocation under this subsection for a fiscal year, a State shall—

(A) develop a plan for innovative projects described in paragraph (1); and

(B) submit the plan to the Secretary not later than March 1 of the fiscal year.

(3) PLAN SELECTION.—

(A) CRITERIA.—Not later than December 1, 1998, the Secretary shall establish criteria for the selection of State plans for allocations under this subsection.

(B) SELECTION.—The Secretary shall select State plans for allocations under this subsection in accordance with the criteria established under subparagraph (A).

(C) STATES.—In carrying out this paragraph, the Secretary shall ensure, to the maximum extent practicable, demographic and geographic diversity and a diversity of seat belt use rates among the States selected for allocations.

(4) ALLOCATION.—Not later than October 1, 1999, and each October 1 thereafter through October 1, 2004, the Secretary shall allocate funds to the States whose plans were selected under paragraph (3).

(5) AMOUNT OF ALLOCATIONS.—Subject to the availability of unallocated amounts under subsection (g)(3), the amount of each allocation to a State under this subsection shall be not less than $100,000 for each fiscal year that is covered by a State plan.

(6) USE OF ALLOCATIONS.—An allocation to a State under this subsection shall be used to carry out the innovative seat belt projects described in the State plan for which the allocation is awarded.

(7) FEDERAL SHARE.—The Federal share of the cost of an innovative seat belt project under this section shall be 100 percent.

(8) PERIOD OF AVAILABILITY.—Amounts allocated to a State under this subsection shall remain available for obligation in the State for a period of 3 years after the last day of the fiscal year for which the amounts are allocated.

(g) FUNDING.—

(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $82,000,000 for fiscal year 1999, $92,000,000 for fiscal year 2000, $102,000,000 for fiscal year 2001, $112,000,000 for fiscal year 2002, $112,000,000 for fiscal year 2003, $112,000,000 for fiscal year 2004, and $112,000,000 for fiscal year 2005.

(2) PROPORTIONATE ADJUSTMENT.—If the total amounts to be allocated under subsection (c) for any fiscal year would exceed the amounts authorized for the fiscal year under paragraph (1), the allocation to each State under subsection (c) shall be reduced proportionately.

(3) USE OF UNALLOCATED FUNDS.—

(A) FISCAL YEAR 1999.—To the extent that the amounts made available for fiscal year 1999 under paragraph (1) exceed the total amounts to be allocated under subsection (c) for fiscal year 1999, the excess amounts—

(i) shall be apportioned in accordance with section 104(b)(3);

(ii) shall be considered to be sums made available for expenditure on the surface transportation program, except that the amounts shall not be subject to section 133(d); and

(iii) shall be available for any purpose eligible for funding under section 133.

(B) FISCAL YEARS 2000 THROUGH 2005.—To the extent that the amounts made available for any of fiscal years 2000 through 2005 under paragraph (1) exceed the total amounts to be allocated under subsection (c) for the fiscal year, the excess amounts shall be used to make allocations under subsection (f).

(Added Pub. L. 105–178, title I, §1403(a), June 9, 1998, 112 Stat. 237; amended Pub. L. 108–88, §6(a)(1), Sept. 30, 2003, 117 Stat. 1119; Pub. L. 108–202, §6(a), Feb. 29, 2004, 118 Stat. 483; Pub. L. 108–224, §5(a), Apr. 30, 2004, 118 Stat. 632; Pub. L. 108–263, §5(a), June 30, 2004, 118 Stat. 703; Pub. L. 108–280, §5(a), July 30, 2004, 118 Stat. 881; Pub. L. 108–310, §6(a)(1), Sept. 30, 2004, 118 Stat. 1152; Pub. L. 109–14, §5(a)(1), May 31, 2005, 119 Stat. 329; Pub. L. 109–20, §5(a)(1), July 1, 2005, 119 Stat. 351; Pub. L. 109–35, §5(a)(1), July 20, 2005, 119 Stat. 384; Pub. L. 109–37, §5(a)(1), July 22, 2005, 119 Stat. 399; Pub. L. 109–40, §5(a)(1), July 28, 2005, 119 Stat. 415; Pub. L. 109–59, title I, §1406, Aug. 10, 2005, 119 Stat. 1231.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(6), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Social Security Act are classified generally to subchapters XVIII (§1395 et seq.) and XIX (§1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The date of enactment of this section, referred to in subsec. (e), is the date of enactment of Pub. L. 105–178, which was approved June 9, 1998.

PRIOR PROVISIONS

A prior section 157, added Pub. L. 97–424, title I, §150(a), Jan. 6, 1983, 96 Stat. 2131; amended Pub. L. 99–272, title IV, §4102(f), Apr. 7, 1986, 100 Stat. 113; Pub. L. 100–17, title I, §§105(h), 124, Apr. 2, 1987, 101 Stat. 144, 164; Pub. L. 102–240, title I, §§1002(h), 1013(a), (b), Dec. 18, 1991, 105 Stat. 1918, 1940; Pub. L. 103–272, §5(f)(3), July 5, 1994, 108 Stat. 1374, related to minimum allocations to States, prior to repeal by Pub. L. 105–178, title I, §1403(a), June 9, 1998, 112 Stat. 237.

AMENDMENTS

2005—Subsec. (g)(1). Pub. L. 109–59 substituted ''2004, and $112,000,000 for fiscal year 2005'' for ''2004, and $92,975,342 for the period of October 1, 2004, through July 30, 2005''.

Pub. L. 109–40 substituted ''$92,975,342 for the period of October 1, 2004, through July 30, 2005'' for ''$92,054,794 for the period of October 1, 2004, through July 27, 2005''.

Pub. L. 109–37 substituted ''$92,054,794 for the period of October 1, 2004, through July 27, 2005'' for ''$90,720,000 for the period of October 1, 2004, through July 21, 2005''.

Pub. L. 109–35 substituted ''$90,720,000 for the period of October 1, 2004, through July 21, 2005'' for ''$89,600,000 for the period of October 1, 2004, through July 19, 2005''.

Pub. L. 109–20 substituted ''$89,600,000 for the period of October 1, 2004, through July 19, 2005'' for ''$84,000,000 for the period of October 1, 2004, through June 30, 2005''.

Pub. L. 109–14 substituted ''$84,000,000 for the period of October 1, 2004, through June 30, 2005'' for ''$74,666,667 for the period of October 1, 2004, through May 31, 2005''.

2004—Subsec. (a)(3), (8)(B). Pub. L. 108–310, §6(a)(1)(A), (B), substituted ''2003'' for ''2002''.

Subsec. (b). Pub. L. 108–310, §6(a)(1)(C), substituted ''2005'' for ''2003'' in introductory provisions.

Subsecs. (c)(1), (2), (f)(4). Pub. L. 108–310, §6(a)(1)(D)–(F), substituted ''2004'' for ''2003''.

Subsec. (g)(1). Pub. L. 108–310, §6(a)(1)(G), struck out ''and'' after ''2003,'' and inserted '', and $74,666,667 for the period of October 1, 2004, through May 31, 2005'' before period at end.

Pub. L. 108–280 substituted ''$112,000,000 for fiscal year 2004'' for ''$93,333,333 for the period of October 1, 2003, through July 31, 2004''.

Pub. L. 108–263 substituted ''$93,333,333 for the period of October 1, 2003, through July 31, 2004'' for ''$84,000,000 for the period of October 1, 2003, through June 30, 2004''.

Pub. L. 108–224 substituted ''$84,000,000 for the period of October 1, 2003, through June 30, 2004'' for ''$65,333,333 for the period of October 1, 2003, through April 30, 2004''.

Pub. L. 108–202 substituted ''$65,333,333 for the period of October 1, 2003, through April 30, 2004'' for ''$46,666,667 for the period of October 1, 2003, through February 29, 2004''.

Subsec. (g)(3)(B). Pub. L. 108–310, § 6(a)(1)(H), (I), substituted ''2005'' for ''2004'' in heading and text.

2003—Subsec. (a)(3), (8)(B). Pub. L. 108–88, § 6(a)(1)(A), (B), substituted ''2002'' for ''2001''.

Subsec. (b). Pub. L. 108–88, § 6(a)(1)(C), substituted ''2003'' for ''2002'' in introductory provisions.

Subsecs. (c)(1), (2), (f)(4). Pub. L. 108–88, § 6(a)(1)(D)–(F), substituted ''2003'' for ''2002''.

Subsec. (g)(1). Pub. L. 108–88, § 6(a)(1)(G), struck out ''and'' after ''2002,'' and inserted before period at end '', and $46,666,667 for the period of October 1, 2003, through February 29, 2004''.

Subsec. (g)(3)(B). Pub. L. 108–88, § 6(a)(1)(H), (I), substituted ''2004'' for ''2003'' in heading and text.

SAVINGS CLAUSE

Pub. L. 105–178, title I, § 1403(c), June 9, 1998, 112 Stat. 240, provided that: ''The amendment made by subsection (a) [enacting this section and repealing former section 157 of this title] shall not affect any funds apportioned or allocated before the date of enactment of this Act [June 9, 1998].''

§ 158. National minimum drinking age

(a) WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—

(1) IN GENERAL.—The Secretary shall withhold 10 per centum of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(3), and 104(b)(4) of this title on the first day of each fiscal year after the second fiscal year beginning after September 30, 1985, in which the purchase or public possession in such State of any alcoholic beverage by a person who is less than twenty-one years of age is lawful.

(2) STATE GRANDFATHER LAW AS COMPLYING.—If, before the later of (A) October 1, 1986, or (B) the tenth day following the last day of the first session the legislature of a State convenes after the date of the enactment of this paragraph, such State has in effect a law which makes unlawful the purchase and public possession in such State of any alcoholic beverage by a person who is less than 21 years of age (other than any person who is 18 years of age or older on the day preceding the effective date of such law and at such time could lawfully purchase or publicly possess any alcoholic beverage in such State), such State shall be deemed to be in compliance with paragraph (1) in each fiscal year in which such law is in effect.

(b) EFFECT OF WITHHOLDING OF FUNDS.—No funds withheld under this section from apportionment to any State after September 30, 1988, shall be available for apportionment to that State.

(c) ALCOHOLIC BEVERAGE DEFINED.—As used in this section, the term ''alcoholic beverage'' means—

(1) beer as defined in section 5052(a) of the Internal Revenue Code of 1986,

(2) wine of not less than one-half of 1 per centum of alcohol by volume, or

(3) distilled spirits as defined in section 5002(a)(8) of such Code.

(Added Pub. L. 98–363, § 6(a), July 17, 1984, 98 Stat. 437; amended Pub. L. 99–272, title IV, § 4104, Apr. 7, 1986, 100 Stat. 114; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 105–178, title I, § 1103(*l*)(2), June 9, 1998, 112 Stat. 125.)

REFERENCES IN TEXT

The date of the enactment of this paragraph, referred to in subsec. (a)(2), is the date of enactment of Pub. L. 99–272, which was approved Apr. 7, 1986.

The Internal Revenue Code of 1986, referred to in subsec. (c), is set out in Title 26, Internal Revenue Code.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–178, § 1103(*l*)(2)(A)(i)–(iii), redesignated par. (2) as (1), substituted ''In general'' for ''After the first year'' in heading and ''104(b)(3), and 104(b)(4)'' for ''104(b)(2), 104(b)(5), and 104(b)(6)'' in text, and struck out former par. (1) which read as follows:

''(1) FIRST YEAR.—The Secretary shall withhold 5 per centum of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of this title on the first day of the fiscal year succeeding the first fiscal year beginning after September 30, 1985, in which the purchase or public possession in such State of any alcoholic beverage by a person who is less than twenty-one years of age is lawful.''

Subsec. (a)(2), (3). Pub. L. 105–178, § 1103(*l*)(2)(A)(ii), (iv), redesignated par. (3) as (2) and substituted ''paragraph (1)'' for ''paragraphs (1) and (2) of this subsection''. Former par. (2) redesignated (1).

Subsec. (b). Pub. L. 105–178, § 1103(*l*)(2)(B), added subsec. (b) and struck out heading and text of former subsec. (b) which related to period of availability for apportionment to State of funds withheld by the Secretary pending State enactment of federally-prescribed minimum drinking age.

1986—Subsec. (a). Pub. L. 99–272, § 4104(d)(1), added subsection heading.

Subsec. (a)(1). Pub. L. 99–272, § 4104(d)(2)–(4), added paragraph heading, aligned margins, and inserted ''first'' before ''fiscal year beginning''.

Subsec. (a)(2). Pub. L. 99–272, § 4104(a), (d)(3), (5), added paragraph heading, realigned margins, and substituted ''each fiscal year after'' for ''the fiscal year succeeding''.

Subsec. (a)(3). Pub. L. 99–272, § 4104(b), added par. (3).

Subsec. (b). Pub. L. 99–272, § 4104(c), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The Secretary shall promptly apportion to a State any funds which have been withheld from apportionment under subsection (a) of this section in fiscal year if in any succeeding fiscal year such State makes unlawful the purchase or public possession of any alcoholic beverage by a person who is less than twenty-one years of age.''

Subsec. (c). Pub. L. 99–272, § 4104(d)(6), added subsection heading.

Subsec. (c)(1). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

§ 159. Revocation or suspension of drivers' licenses of individuals convicted of drug offenses

(a) WITHHOLDING OF APPORTIONMENTS FOR NONCOMPLIANCE.—

(1) BEGINNING IN FISCAL YEAR 1994.—For each fiscal year the Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) of section 104(b) on the first day of each fiscal year which begins after the second calendar year following the effective date of this section if the State does

not meet the requirements of paragraph (3) on such date.

(2) BEGINNING IN FISCAL YEAR 1996.—The Secretary shall withhold 10 percent (including any amounts withheld under paragraph (1)) of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) of section 104(b) on the first day of each fiscal year which begins after the fourth calendar year following the effective date of this section if the State does not meet the requirements of paragraph (3) on the first day of such fiscal year.

(3) REQUIREMENTS.—A State meets the requirements of this paragraph if—

(A) the State has enacted and is enforcing a law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception—

(i) the revocation, or suspension for at least 6 months, of the driver's license of any individual who is convicted, after the enactment of such law, of—

(I) any violation of the Controlled Substances Act, or

(II) any drug offense; and

(ii) a delay in the issuance or reinstatement of a driver's license to such an individual for at least 6 months after the individual applies for the issuance or reinstatement of a driver's license if the individual does not have a driver's license, or the driver's license of the individual is suspended, at the time the individual is so convicted; or

(B) the Governor of the State—

(i) submits to the Secretary no earlier than the adjournment sine die of the first regularly scheduled session of the State's legislature which begins after the effective date of this section a written certification stating that the Governor is opposed to the enactment or enforcement in the State of a law described in subparagraph (A), relating to the revocation, suspension, issuance, or reinstatement of drivers' licenses to convicted drug offenders; and

(ii) submits to the Secretary a written certification that the legislature (including both Houses where applicable) has adopted a resolution expressing its opposition to a law described in clause (i).

(b) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—

(A) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 1995.—Any funds withheld under subsection (a) from apportionment to any State on or before September 30, 1995, shall remain available for apportionment to such State as follows:

(i) If such funds would have been apportioned under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) but for this section, such funds shall remain available until the end of the fiscal year for which such funds are authorized to be appropriated.

(ii) If such funds would have been apportioned under section 104(b)(5)(B) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) but for this section, such funds shall remain available until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

(iii) If such funds would have been apportioned under paragraph (1), (3), or (5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) of section 104(b) but for this section, such funds shall remain available until the end of the third fiscal year following the fiscal year for which such funds are authorized to be appropriated.

(B) FUNDS WITHHELD AFTER SEPTEMBER 30, 1995.—No funds withheld under this section from apportionment to any State after September 30, 1995, shall be available for apportionment to such State.

(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment to a State under paragraph (1), the State meets the requirements of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirements of subsection (a)(3), apportion to the State the funds withheld under subsection (a) that remain available for apportionment to the State.

(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure as follows:

(A) Funds which would have been originally apportioned under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) shall remain available until the end of the fiscal year succeeding the fiscal year in which such funds are apportioned under paragraph (2).

(B) Funds which would have been originally apportioned under paragraph (1), (3), or (5)(B) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) of section 104(b) shall remain available until the end of the third fiscal year succeeding the fiscal year in which such funds are so apportioned.

Sums not obligated at the end of such period shall lapse or, in the case of funds apportioned under section 104(b)(5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century), shall lapse and be made available by the Secretary for projects in accordance with section 118(b).

(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirements of subsection (a)(3), such funds shall

lapse or, in the case of funds withheld from apportionment under section 104(b)(5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century), such funds shall lapse and be made available by the Secretary for projects in accordance with section 118(b).

(c) DEFINITIONS.—For purposes of this section—

(1) DRIVER'S LICENSE.—The term ''driver's license'' means a license issued by a State to any individual that authorizes the individual to operate a motor vehicle on highways.

(2) DRUG OFFENSE.—The term ''drug offense'' means any criminal offense which proscribes—

(A) the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act; or

(B) the operation of a motor vehicle under the influence of such a substance.

(3) CONVICTED.—The term ''convicted'' includes adjudicated under juvenile proceedings.

(Added Pub. L. 102–143, title III, § 333(a), Oct. 28, 1991, 105 Stat. 944; amended Pub. L. 102–388, title III, § 327(a), Oct. 6, 1992, 106 Stat. 1547; Pub. L. 105–178, title I, § 1103(*l*)(3)(E), June 9, 1998, 112 Stat. 126.)

REFERENCES IN TEXT

The date of enactment of the Transportation Equity Act for the 21st Century, referred to in subsecs. (a)(1), (2) and (b)(1)(A), (3), (4), is the date of enactment of Pub. L. 105–178, which was approved June 9, 1998.

The effective date of this section, referred to in subsec. (a)(1), (2), (3)(B)(i), is Nov. 5, 1990. See section 333(e) of Pub. L. 102–143, set out as a note below.

The Controlled Substances Act, referred to in subsecs. (a)(3)(A)(i)(I) and (c)(2)(A), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§ 801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

AMENDMENTS

1998—Subsec. (a)(1), (2). Pub. L. 105–178, § 1103(*l*)(3)(E)(i), substituted ''(5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) of'' for ''(5) of'' before ''section 104(b)''.

Subsec. (b)(1)(A)(i). Pub. L. 105–178, § 1103(*l*)(3)(E)(ii)(I), substituted ''section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)'' for ''section 104(b)(5)(A)''.

Subsec. (b)(1)(A)(ii). Pub. L. 105–178, § 1103(*l*)(3)(E)(ii)(II), substituted ''section 104(b)(5)(B) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)'' for ''section 104(b)(5)(B)''.

Subsec. (b)(1)(A)(iii). Pub. L. 105–178, § 1103(*l*)(3)(E)(i), substituted ''(5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) of'' for ''(5) of'' before ''section 104(b)''.

Subsec. (b)(3). Pub. L. 105–178, § 1103(*l*)(3)(E)(ii)(IV), substituted ''section 104(b)(5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)'' for ''section 104(b)(5)'' in concluding provisions.

Subsec. (b)(3)(A). Pub. L. 105–178, § 1103(*l*)(3)(E)(ii)(I), substituted ''section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)'' for ''section 104(b)(5)(A)''.

Subsec. (b)(3)(B). Pub. L. 105–178, § 1103(*l*)(3)(E)(ii)(III), substituted ''(5)(B) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)'' for ''(5)(B)''.

Subsec. (b)(4). Pub. L. 105–178, § 1103(*l*)(3)(E)(ii)(IV), substituted ''section 104(b)(5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)'' for ''section 104(b)(5)''.

1992—Pub. L. 102–388 amended section generally, substituting ''Beginning in fiscal year 1994'' for ''After second calendar year'' as subsec. (a)(1) heading, ''paragraphs (1), (3), and (5)'' for ''paragraphs (1), (2), (5), and (6)'' in subsec. (a)(1) and (2), ''Beginning in fiscal year 1996'' for ''After fourth calendar year'' as subsec. (a)(2) heading, ''paragraph (1), (3), or (5)'' for ''paragraph (1), (2), or (6)'' in subsec. (b)(1)(A)(iii), and ''paragraph (1), (3), or (5)(B)'' for ''paragraph (1), (2), (5)(B), or (6)'' in subsec. (b)(3)(B).

EFFECTIVE DATE OF 1992 AMENDMENT

Section 327(b) of Pub. L. 102–388 provided that: ''The amendments made by subsection (a) of this section [amending this section] shall take effect November 5, 1990.''

EFFECTIVE DATE

Section 333(e) of Pub. L. 102–143 provided that: ''The amendments made by subsection (a) of this section [enacting this section] shall take effect November 5, 1990.''

STUDY ON STATE COMPLIANCE WITH REQUIREMENTS FOR REVOCATION AND SUSPENSION OF DRIVERS' LICENSES

Pub. L. 102–240, title I, § 1094, Dec. 18, 1991, 105 Stat. 2025, provided that:

''(a) STUDY.—The Secretary shall conduct a study of State efforts to comply with the provisions of section 333 of the Department of Transportation and Related Agencies Appropriations Acts, 1991 and 1992 [section 333 of Pub. L. 102–143 (1992 Act) enacted this section and provisions set out as a note above and repealed section 333 of Pub. L. 101–516 (1991 Act) which amended section 104 of this title and enacted provisions set out as a note thereunder], relating to revocation and suspension of drivers' licenses.

''(b) REPORT.—Not later than December 31, 1992, the Secretary shall transmit to Congress a report on the results of the study conducted under this section.''

§ 160. Reimbursement for segments of the Interstate System constructed without Federal assistance

(a) GENERAL AUTHORITY.—The Secretary shall allocate to the States in each of fiscal years 1996 and 1997 amounts determined under subsection (b) for reimbursement of their original contributions to construction of segments of the Interstate System which were constructed without Federal financial assistance.

(b) DETERMINATION OF REIMBURSEMENT AMOUNT.—The amount to be reimbursed to a State in each of fiscal years 1996 and 1997 under this section shall be determined by multiplying the amount made available for carrying out this section for such fiscal year by the reimbursement percentage set forth in the table contained in subsection (c).

(c) REIMBURSEMENT TABLE.—For purposes of carrying out this section, the reimbursement percentage, the original cost for constructing the Interstate System, and the total reimbursable amount for each State is set forth in the following table:

States	Original cost in millions	Reimbursement percentage	Reimbursable amount in millions
Alabama	$9	0.50	$147
Alaska		0.50	147
Arizona	20	0.50	147
Arkansas	6	0.50	147
California	298	5.42	1,591
Colorado	23	0.50	147
Connecticut	314	5.71	1,676
Delaware	39	0.71	209
Florida	31	0.56	164
Georgia	46	0.84	246
Hawaii		0.50	147
Idaho	5	0.50	147
Illinois	475	8.62	2,533
Indiana	167	3.03	892
Iowa	5	0.50	147
Kansas	101	1.84	540
Kentucky	32	0.57	169
Louisiana	22	0.50	147
Maine	38	0.69	204
Maryland	154	2.79	820
Massachusetts	283	5.14	1,511
Michigan	228	4.14	1,218
Minnesota	16	0.50	147
Mississippi	6	0.50	147
Missouri	74	1.35	396
Montana	5	0.50	147
Nebraska	1	0.50	147
Nevada	2	0.50	147
New Hampshire	8	0.50	147
New Jersey	353	6.41	1,882
New Mexico	8	0.50	147
New York	929	16.88	4,960
North Carolina	36	0.65	191
North Dakota	3	0.50	147
Ohio	257	4.68	1,374
Oklahoma	91	1.66	486
Oregon	78	1.42	417
Pennsylvania	354	6.43	1,888
Rhode Island	12	0.50	147
South Carolina	4	0.50	147
South Dakota	5	0.50	147
Tennessee	7	0.50	147
Texas	200	3.64	1,069
Utah	6	0.50	147
Vermont	1	0.50	147
Virginia	111	2.01	591
Washington	73	1.32	389
West Virginia	5	0.50	147
Wisconsin	8	0.50	147
Wyoming	9	0.50	147
D.C.	9	0.50	147
TOTALS	$4,967	100.00	$29,384

(d) TRANSFER OF REIMBURSABLE AMOUNTS TO STP APPORTIONMENT.—Subject to subsection (e) of this section, the Secretary shall transfer amounts allocated to a State pursuant to this section to the apportionment of such State under section 104(b)(3) for the surface transportation program.

(e) LIMITATION ON APPLICABILITY OF CERTAIN REQUIREMENTS OF STP PROGRAM.—The following provisions of section 133 of this title shall not apply to ½ of the amounts transferred under subsection (d) to the apportionment of the State for the surface transportation program:

(1) Subsection (d)(1).[1]

(2) Subsection (d)(2).

(3) Subsection (d)(3).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), $2,000,000,000 per fiscal year for each of fiscal years 1996 and 1997 to carryout this section.

(Added Pub. L. 102–240, title I, §1014(a), Dec. 18, 1991, 105 Stat. 1941.)

REFERENCES IN TEXT

Subsection (d)(1) of section 133 of this title, referred to in subsec. (e)(1), was repealed by Pub. L. 109–59, title I, §1113(b)(1), Aug. 10, 2005, 119 Stat. 1172.

EFFECTIVE DATE

Section effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102–240, set out as an Effective Date of 1991 Amendment note under section 104 of this title.

§161. Operation of motor vehicles by intoxicated minors

(a) WITHHOLDING OF APPORTIONMENTS FOR NONCOMPLIANCE.—

(1) FISCAL YEAR 1999.—The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 1998, if the State does not meet the requirement of paragraph (3) on that date.

(2) THEREAFTER.—The Secretary shall withhold 10 percent (including any amounts withheld under paragraph (1)) of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 1999, and on October 1 of each fiscal year thereafter, if the State does not meet the requirement of paragraph (3) on that date.

(3) REQUIREMENT.—A State meets the requirement of this paragraph if the State has enacted and is enforcing a law that considers an individual under the age of 21 who has a blood alcohol concentration of 0.02 percent or greater while operating a motor vehicle in the State to be driving while intoxicated or driving under the influence of alcohol.

(b) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—

(A) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 2000.—Any funds withheld under subsection (a) from apportionment to any State on or before September 30, 2000, shall remain available until the end of the third fiscal year following the fiscal year for which the funds are authorized to be appropriated.

(B) FUNDS WITHHELD AFTER SEPTEMBER 30, 2000.—No funds withheld under this section from apportionment to any State after September 30, 2000, shall be available for apportionment to the State.

(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment to a State under paragraph (1), the State meets the require-

[1] See References in Text note below.

ment of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirement, apportion to the State the funds withheld under subsection (a) that remain available for apportionment to the State.

(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure until the end of the third fiscal year following the fiscal year in which the funds are so apportioned. Sums not obligated at the end of that period shall lapse.

(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirement of subsection (a)(3), the funds shall lapse.

(Added Pub. L. 104–59, title III, § 320(a), Nov. 28, 1995, 109 Stat. 589; amended Pub. L. 105–178, title I, § 1103(*l*)(3)(F), June 9, 1998, 112 Stat. 126.)

AMENDMENTS

1998—Subsec. (a)(1), (2). Pub. L. 105–178 substituted ''paragraphs (1), (3), and (4) of section 104(b)'' for ''paragraphs (1), (3), and (5)(B) of section 104(b)''.

§ 162. National scenic byways program

(a) DESIGNATION OF ROADS.—

(1) IN GENERAL.—The Secretary shall carry out a national scenic byways program that recognizes roads having outstanding scenic, historic, cultural, natural, recreational, and archaeological qualities by designating the roads as—

(A) National Scenic Byways;

(B) All-American Roads; or

(C) America's Byways.

(2) CRITERIA.—The Secretary shall designate roads to be recognized under the national scenic byways program in accordance with criteria developed by the Secretary.

(3) NOMINATION.—

(A) IN GENERAL.—To be considered for a designation, a road must be nominated by a State, an Indian tribe, or a Federal land management agency and must first be designated as a State scenic byway, an Indian tribe scenic byway, or, in the case of a road on Federal land, as a Federal land management agency byway.

(B) NOMINATION BY INDIAN TRIBES.—An Indian tribe may nominate a road as a National Scenic Byway, an All-American Road, or one of America's Byways under paragraph (1) only if a Federal land management agency (other than the Bureau of Indian Affairs), a State, or a political subdivision of a State does not have—

(i) jurisdiction over the road; or

(ii) responsibility for managing the road.

(C) SAFETY.—An Indian tribe shall maintain the safety and quality of roads nominated by the Indian tribe under subparagraph (A).

(4) RECIPROCAL NOTIFICATION.—States, Indian tribes, and Federal land management agencies shall notify each other regarding nominations made under this subsection for roads that—

(A) are within the jurisdictional boundary of the State, Federal land management agency, or Indian tribe; or

(B) directly connect to roads for which the State, Federal land management agency, or Indian tribe is responsible.

(b) GRANTS AND TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall make grants and provide technical assistance to States and Indian tribes to—

(A) implement projects on highways designated as—

(i) National Scenic Byways;

(ii) All-American Roads;

(iii) America's Byways;

(iv) State scenic byways; or

(v) Indian tribe scenic byways; and

(B) plan, design, and develop a State or Indian tribe scenic byway program.

(2) PRIORITIES.—In making grants, the Secretary shall give priority to—

(A) each eligible project that is associated with a highway that has been designated as a National Scenic Byway, All-American Road, or 1 of America's Byways and that is consistent with the corridor management plan for the byway;

(B) each eligible project along a State or Indian tribe scenic byway that is consistent with the corridor management plan for the byway, or is intended to foster the development of such a plan, and is carried out to make the byway eligible for designation as—

(i) a National Scenic Byway;

(ii) an All-American Road; or

(iii) 1 of America's Byways; and

(C) each eligible project that is associated with the development of a State or Indian tribe scenic byway program.

(c) ELIGIBLE PROJECTS.—The following are projects that are eligible for Federal assistance under this section:

(1) An activity related to the planning, design, or development of a State or Indian tribe scenic byway program.

(2) Development and implementation of a corridor management plan to maintain the scenic, historical, recreational, cultural, natural, and archaeological characteristics of a byway corridor while providing for accommodation of increased tourism and development of related amenities.

(3) Safety improvements to a State scenic byway, Indian tribe scenic byway, National Scenic Byway, All-American Road, or one of America's Byways to the extent that the improvements are necessary to accommodate increased traffic and changes in the types of vehicles using the highway as a result of the designation as a State scenic byway, Indian tribe scenic byway, National Scenic Byway, All-American Road, or one of America's Byways.

(4) Construction along a scenic byway of a facility for pedestrians and bicyclists, rest area, turnout, highway shoulder improvement, overlook, or interpretive facility.

(5) An improvement to a scenic byway that will enhance access to an area for the purpose of recreation, including water-related recreation.

(6) Protection of scenic, historical, recreational, cultural, natural, and archaeological resources in an area adjacent to a scenic byway.

(7) Development and provision of tourist information to the public, including interpretive information about a scenic byway.

(8) Development and implementation of a scenic byway marketing program.

(d) LIMITATION.—The Secretary shall not make a grant under this section for any project that would not protect the scenic, historical, recreational, cultural, natural, and archaeological integrity of a highway and adjacent areas.

(e) SAVINGS CLAUSE.—The Secretary shall not withhold any grant or impose any requirement on a State or Indian tribe as a condition of providing a grant or technical assistance for any scenic byway unless the requirement is consistent with the authority provided in this chapter.

(f) FEDERAL SHARE.—The Federal share of the cost of carrying out a project under this section shall be 80 percent, except that, in the case of any scenic byway project along a public road that provides access to or within Federal or Indian land, a Federal land management agency may use funds authorized for use by the agency as the non-Federal share.

(Added Pub. L. 105–178, title I, §1219(a), June 9, 1998, 112 Stat. 219; amended Pub. L. 109–59, title I, §1802, Aug. 10, 2005, 119 Stat. 1456; Pub. L. 110–244, title I, §101(*o*), June 6, 2008, 122 Stat. 1576.)

AMENDMENTS

2008—Subsec. (a)(3)(B). Pub. L. 110–244, §101(*o*)(1), substituted ''a National Scenic Byway, an All-American Road, or one of America's Byways under paragraph (1)'' for ''a National Scenic Byway under subparagraph (A)'' in introductory provisions.

Subsec. (c)(3). Pub. L. 110–244, §101(*o*)(2), substituted ''All-American Road, or one of America's Byways'' for ''or All-American Road'' in two places.

2005—Subsec. (a)(1). Pub. L. 109–59, §1802(a)(1), substituted ''the roads as—'' and subpars. (A) to (C) for ''the roads as National Scenic Byways or All-American Roads.''

Subsec. (a)(3), (4). Pub. L. 109–59, §1802(a)(2), added pars. (3) and (4) and struck out heading and text of former par. (3). Text read as follows: ''To be considered for the designation, a road must be nominated by a State or a Federal land management agency and must first be designated as a State scenic byway or, in the case of a road on Federal land, as a Federal land management agency byway.''

Subsec. (b)(1). Pub. L. 109–59, §1802(b)(1), inserted ''and Indian tribes'' after ''States'' in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 109–59, §1802(b)(2), substituted ''designated as—'' and cls. (i) to (v) for ''designated as National Scenic Byways or All-American Roads, or as State scenic byways; and''.

Subsec. (b)(1)(B). Pub. L. 109–59, §1802(b)(3), inserted ''or Indian tribe'' after ''State''.

Subsec. (b)(2)(A). Pub. L. 109–59, §1802(b)(4), substituted ''Byway, All-American Road, or 1 of America's Byways'' for ''Byway or All-American Road''.

Subsec. (b)(2)(B). Pub. L. 109–59, §1802(b)(5), substituted ''State or Indian tribe'' for ''State-designated'' and ''designation as—'' and cls. (i) to (iii) for ''designation as a National Scenic Byway or All-American Road; and''.

Subsec. (b)(2)(C). Pub. L. 109–59, §1802(b)(6), inserted ''or Indian tribe'' after ''State''.

Subsec. (c)(1). Pub. L. 109–59, §1802(c)(1), inserted ''or Indian tribe'' after ''State''.

Subsec. (c)(3). Pub. L. 109–59, §1802(c)(2), inserted ''Indian tribe scenic byway,'' after ''improvements to a State scenic byway,'' and ''designation as a State scenic byway,''.

Subsec. (c)(4). Pub. L. 109–59, §1802(c)(3), struck out ''passing lane,'' before ''overlook,''.

Subsec. (e). Pub. L. 109–59, §1802(d), inserted ''or Indian tribe'' after ''State''.

§163. Safety incentives to prevent operation of motor vehicles by intoxicated persons

(a) GENERAL AUTHORITY.—The Secretary shall make a grant, in accordance with this section, to any State that has enacted and is enforcing a law that provides that any person with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle in the State shall be deemed to have committed a per se offense of driving while intoxicated (or an equivalent per se offense).

(b) GRANTS.—For each fiscal year, funds authorized to carry out this section shall be apportioned to each State that has enacted and is enforcing a law meeting the requirements of subsection (a) in an amount determined by multiplying—

(1) the amount authorized to carry out this section for the fiscal year; by

(2) the ratio that the amount of funds apportioned to each such State under section 402 for such fiscal year bears to the total amount of funds apportioned to all such States under section 402 for such fiscal year.

(c) USE OF GRANTS.—A State may obligate funds apportioned under subsection (b) for any project eligible for assistance under this title.

(d) FEDERAL SHARE.—The Federal share of the cost of a project funded under this section shall be 100 percent.

(e) PENALTY.—

(1) IN GENERAL.—On October 1, 2003, and October 1 of each fiscal year thereafter, if a State has not enacted or is not enforcing a law described in subsection (a), the Secretary shall withhold from amounts apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) an amount equal to the amount specified in paragraph (2).

(2) AMOUNT TO BE WITHHELD.—If a State is subject to a penalty under paragraph (1), the Secretary shall withhold for a fiscal year from the apportionments of the State described in paragraph (1) an amount equal to a percentage of the funds apportioned to the State under paragraphs (1), (3), and (4) of section 104(b) for fiscal year 2003. The percentage shall be as follows:

(A) For fiscal year 2004, 2 percent.

(B) For fiscal year 2005, 4 percent.

(C) For fiscal year 2006, 6 percent.

(D) For fiscal year 2007, and each fiscal year thereafter, 8 percent.

(3) FAILURE TO COMPLY.—If, within 4 years from the date that an apportionment for a State is withheld in accordance with this subsection, the Secretary determines that the State has enacted and is enforcing a law described in subsection (a), the apportionment of the State shall be increased by an amount

equal to the amount withheld. If, at the end of such 4-year period, any State has not enacted or is not enforcing a law described in subsection (a) any amounts so withheld from such State shall lapse.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $55,000,000 for fiscal year 1998, $65,000,000 for fiscal year 1999, $80,000,000 for fiscal year 2000, $90,000,000 for fiscal year 2001, $100,000,000 for fiscal year 2002, $110,000,000 for fiscal year 2003, $110,000,000 for fiscal year 2004, and $110,000,000 for fiscal year 2005 $91,315,068 for the period of October 1, 2004, through July 30, 2005.[1]

(2) AVAILABILITY OF FUNDS.—Notwithstanding section 118(b)(2), the funds authorized by this subsection shall remain available until expended.

(Added Pub. L. 105–178, title I, § 1404(a), June 9, 1998, 112 Stat. 240; amended Pub. L. 108–88, § 6(a)(2), Sept. 30, 2003, 117 Stat. 1119; Pub. L. 108–202, § 6(b), Feb. 29, 2004, 118 Stat. 483; Pub. L. 108–224, § 5(b), Apr. 30, 2004, 118 Stat. 632; Pub. L. 108–263, § 5(b), June 30, 2004, 118 Stat. 703; Pub. L. 108–280, § 5(b), July 30, 2004, 118 Stat. 881; Pub. L. 108–310, § 6(a)(2), Sept. 30, 2004, 118 Stat. 1152; Pub. L. 109–14, § 5(a)(2), May 31, 2005, 119 Stat. 329; Pub. L. 109–20, § 5(a)(2), July 1, 2005, 119 Stat. 351; Pub. L. 109–35, § 5(a)(2), July 20, 2005, 119 Stat. 384; Pub. L. 109–37, § 5(a)(2), July 22, 2005, 119 Stat. 399; Pub. L. 109–40, § 5(a)(2), July 28, 2005, 119 Stat. 416; Pub. L. 109–59, title I, § 1407(a), (b), Aug. 10, 2005, 119 Stat. 1231.)

AMENDMENTS

2005—Subsec. (e). Pub. L. 109–59, § 1407(a)(2), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 109–40 substituted ''$91,315,068 for the period of October 1, 2004, through July 30, 2005'' for ''$90,410,958 for the period of October 1, 2004, through July 27, 2005''.

Pub. L. 109–37 substituted ''$90,410,958 for the period of October 1, 2004, through July 27, 2005'' for ''$89,100,000 for the period of October 1, 2004, through July 21, 2005''.

Pub. L. 109–35 substituted ''$89,100,000 for the period of October 1, 2004, through July 21, 2005'' for ''$88,000,000 for the period of October 1, 2004, through July 19, 2005''.

Pub. L. 109–20 substituted ''$88,000,000 for the period of October 1, 2004, through July 19, 2005'' for ''$82,500,000 for the period of October 1, 2004, through June 30, 2005''.

Pub. L. 109–14 substituted ''$82,500,000 for the period of October 1, 2004, through June 30, 2005'' for ''$73,333,333 for the period of October 1, 2004, through May 31, 2005''.

Subsec. (f). Pub. L. 109–59, § 1407(a)(1), redesignated subsec. (e) as (f).

Subsec. (f)(1). Pub. L. 109–59, § 1407(b), substituted ''2004, and $110,000,000 for fiscal year 2005'' for ''2004, and''.

2004—Subsec. (e)(1). Pub. L. 108–310 struck out ''and'' after ''2003,'' and inserted '', and $73,333,333 for the period of October 1, 2004, through May 31, 2005'' before period at end.

Pub. L. 108–280 substituted ''$110,000,000 for fiscal year 2004'' for ''$100,000,000 for the period of October 1, 2003, through July 31, 2004''.

Pub. L. 108–263 substituted ''$100,000,000 for the period of October 1, 2003, through July 31, 2004'' for ''$90,000,000 for the period of October 1, 2003, through June 30, 2004''.

Pub. L. 108–224 substituted ''$90,000,000 for the period of October 1, 2003, through June 30, 2004'' for ''$70,000,000 for the period of October 1, 2003, through April 30, 2004''.

Pub. L. 108–202 substituted ''$70,000,000 for the period of October 1, 2003, through April 30, 2004'' for ''$50,000,000 for the period of October 1, 2003, through February 29, 2004''.

2003—Subsec. (e)(1). Pub. L. 108–88 struck out ''and'' after ''2002,'' and inserted before period at end '', and $50,000,000 for the period of October 1, 2003, through February 29, 2004''.

WITHHOLDING OF FUNDS FOR FAILURE TO ENACT AND ENFORCE LAWS RELATING TO DRIVING WHILE INTOXICATED

Pub. L. 106–346, § 101(a) [title III, § 351], Oct. 23, 2000, 114 Stat. 1356, 1356A–34, directed the Secretary to withhold a percentage, beginning in fiscal year 2004, of the amount required to be apportioned for Federal-aid highways to any State under pars. (1), (3), and (4) of section 104(b) of this title, if a State had not enacted and was not enforcing a provision described in section 163(a) of this title, and provided for increase of the apportionment by an amount equal to such reduction if within 4 years from the date of the reduction the Secretary determined that such State had enacted and was enforcing a provision described in section 163(a) of this title, prior to repeal by Pub. L. 109–59, title I, § 1407(c), Aug. 10, 2005, 119 Stat. 1231.

§ 164. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ALCOHOL CONCENTRATION.—The term ''alcohol concentration'' means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(2) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms ''driving while intoxicated'' and ''driving under the influence'' mean driving or being in actual physical control of a motor vehicle while having an alcohol concentration above the permitted limit as established by each State.

(3) LICENSE SUSPENSION.—The term ''license suspension'' means the suspension of all driving privileges.

(4) MOTOR VEHICLE.—The term ''motor vehicle'' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line or a commercial vehicle.

(5) REPEAT INTOXICATED DRIVER LAW.—The term ''repeat intoxicated driver law'' means a State law that provides, as a minimum penalty, that an individual convicted of a second or subsequent offense for driving while intoxicated or driving under the influence after a previous conviction for that offense shall—

(A) receive—

(i) a driver's license suspension for not less than 1 year; or

(ii) a combination of suspension of all driving privileges for the first 45 days of the suspension period followed by a reinstatement of limited driving privileges for the purpose of getting to and from work, school, or an alcohol treatment program if an ignition interlock device is installed on each of the motor vehicles owned or operated, or both, by the individual;

[1] So in original. The words ''$91,315,068 for the period of October 1, 2004, through July 30, 2005'' probably should not appear.

(B) be subject to the impoundment or immobilization of, or the installation of an ignition interlock system on, each motor vehicle owned or operated, or both, by the individual;

(C) receive an assessment of the individual's degree of abuse of alcohol and treatment as appropriate; and

(D) receive—

(i) in the case of the second offense—

(I) an assignment of not less than 30 days of community service; or

(II) not less than 5 days of imprisonment; and

(ii) in the case of the third or subsequent offense—

(I) an assignment of not less than 60 days of community service; or

(II) not less than 10 days of imprisonment.

(b) TRANSFER OF FUNDS.—

(1) FISCAL YEARS 2001 AND 2002.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402—

(A) to be used for alcohol-impaired driving countermeasures; or

(B) to be directed to State and local law enforcement agencies for enforcement of laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including the purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures, dedicated to enforcement of the laws (including regulations).

(2) FISCAL YEAR 2003 AND FISCAL YEARS THEREAFTER.—On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 3 percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402 to be used or directed as described in subparagraph (A) or (B) of paragraph (1).

(3) USE FOR HAZARD ELIMINATION PROGRAM.—A State may elect to use all or a portion of the funds transferred under paragraph (1) or (2) for activities eligible under section 148.

(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out with funds transferred under paragraph (1) or (2), or used under paragraph (3), shall be 100 percent.

(5) DERIVATION OF AMOUNT TO BE TRANSFERRED.—The amount to be transferred under paragraph (1) or (2) may be derived from one or more of the following:

(A) The apportionment of the State under section 104(b)(1).

(B) The apportionment of the State under section 104(b)(3).

(C) The apportionment of the State under section 104(b)(4).

(6) TRANSFER OF OBLIGATION AUTHORITY.—

(A) IN GENERAL.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

(B) AMOUNT.—The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year, by

(ii) the ratio that—

(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs, bears to

(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

(7) LIMITATION ON APPLICABILITY OF OBLIGATION LIMITATION.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under such section.

(Added Pub. L. 105–178, title I, § 1406(a), as added Pub. L. 105–206, title IX, § 9005(a), July 22, 1998, 112 Stat. 845; amended Pub. L. 109–59, title I, § 1401(a)(3)(C), Aug. 10, 2005, 119 Stat. 1225; Pub. L. 110–244, title I, § 115, June 6, 2008, 122 Stat. 1606.)

AMENDMENTS

2008—Subsec. (a)(5)(A), (B). Pub. L. 110–244 added subpars. (A) and (B) and struck out former subpars. (A) and (B) which read as follows:

''(A) receive a driver's license suspension for not less than 1 year;

''(B) be subject to the impoundment or immobilization of each of the individual's motor vehicles or the installation of an ignition interlock system on each of the motor vehicles;''.

2005—Subsec. (b)(3). Pub. L. 109–59 substituted ''148'' for ''152''.

EFFECTIVE DATE

Section effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, see section 9016 of Pub. L. 105–206, set out as an Effective Date of 1998 Amendment note under section 101 of this title.

§ 165. Puerto Rico highway program

(a) IN GENERAL.—The Secretary shall allocate funds made available to carry out this section for each of fiscal years 2005 through 2009 to the Commonwealth of Puerto Rico to carry out a highway program in the Commonwealth.

(b) APPLICABILITY OF TITLE.—Amounts made available by section 1101(a)(14) of the

SAFETEA–LU shall be available for obligation in the same manner as if such funds were apportioned under this chapter.

(c) TREATMENT OF FUNDS.—Amounts made available to carry out this section for a fiscal year shall be administered as follows:

(1) APPORTIONMENT.—For the purpose of imposing any penalty under this title or title 49, the amounts shall be treated as being apportioned to Puerto Rico under sections 104(b) and 144, for each program funded under those sections in an amount determined by multiplying—

(A) the aggregate of the amounts for the fiscal year; by

(B) the ratio that—

(i) the amount of funds apportioned to Puerto Rico for each such program for fiscal year 1997; bears to

(ii) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 1997.

(2) PENALTY.—The amounts treated as being apportioned to Puerto Rico under each section referred to in paragraph (1) shall be deemed to be required to be apportioned to Puerto Rico under that section for purposes of the imposition of any penalty under this title or title 49.

(d) EFFECT ON ALLOCATIONS AND APPORTIONMENTS.—Subject to subsection (c)(2), nothing in this section affects any allocation under section 105 and any apportionment under sections 104 and 144.

(Added Pub. L. 109–59, title I, § 1120(a), Aug. 10, 2005, 119 Stat. 1191.)

REFERENCES IN TEXT

Section 1101(a)(14) of the SAFETEA–LU, referred to in subsec. (b), is section 1101(a)(14) of Pub. L. 109–59, title I, Aug. 10, 2005, 119 Stat. 1155, which is not classified to the Code.

§ 166. HOV facilities

(a) IN GENERAL.—

(1) AUTHORITY OF STATE AGENCIES.—A State agency that has jurisdiction over the operation of a HOV facility shall establish the occupancy requirements of vehicles operating on the facility.

(2) OCCUPANCY REQUIREMENT.—Except as otherwise provided by this section, no fewer than two occupants per vehicle may be required for use of a HOV facility.

(b) EXCEPTIONS.—

(1) IN GENERAL.—Notwithstanding the occupancy requirement of subsection (a)(2), the exceptions in paragraphs (2) through (5) shall apply with respect to a State agency operating a HOV facility.

(2) MOTORCYCLES AND BICYCLES.—

(A) IN GENERAL.—Subject to subparagraph (B), the State agency shall allow motorcycles and bicycles to use the HOV facility.

(B) SAFETY EXCEPTION.—

(i) IN GENERAL.—A State agency may restrict use of the HOV facility by motorcycles or bicycles (or both) if the agency certifies to the Secretary that such use would create a safety hazard and the Secretary accepts the certification.

(ii) ACCEPTANCE OF CERTIFICATION.—The Secretary may accept a certification under this subparagraph only after the Secretary publishes notice of the certification in the Federal Register and provides an opportunity for public comment.

(3) PUBLIC TRANSPORTATION VEHICLES.—The State agency may allow public transportation vehicles to use the HOV facility if the agency—

(A) establishes requirements for clearly identifying the vehicles; and

(B) establishes procedures for enforcing the restrictions on the use of the facility by the vehicles.

(4) HIGH OCCUPANCY TOLL VEHICLES.—The State agency may allow vehicles not otherwise exempt pursuant to this subsection to use the HOV facility if the operators of the vehicles pay a toll charged by the agency for use of the facility and the agency—

(A) establishes a program that addresses how motorists can enroll and participate in the toll program;

(B) develops, manages, and maintains a system that will automatically collect the toll; and

(C) establishes policies and procedures to—

(i) manage the demand to use the facility by varying the toll amount that is charged; and

(ii) enforce violations of use of the facility.

(5) LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—

(A) INHERENTLY LOW EMISSION VEHICLE.—Before September 30, 2009, the State agency may allow vehicles that are certified as inherently low-emission vehicles pursuant to section 88.311–93 of title 40, Code of Federal Regulations (or successor regulations), and are labeled in accordance with section 88.312–93 of such title (or successor regulations), to use the HOV facility if the agency establishes procedures for enforcing the restrictions on the use of the facility by the vehicles.

(B) OTHER LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—Before September 30, 2009, the State agency may allow vehicles certified as low emission and energy-efficient vehicles under subsection (e), and labeled in accordance with subsection (e), to use the HOV facility if the operators of the vehicles pay a toll charged by the agency for use of the facility and the agency—

(i) establishes a program that addresses the selection of vehicles under this paragraph; and

(ii) establishes procedures for enforcing the restrictions on the use of the facility by the vehicles.

(C) AMOUNT OF TOLLS.—Under subparagraph (B), a State agency may charge no toll or may charge a toll that is less than tolls charged under paragraph (4).

(c) REQUIREMENTS APPLICABLE TO TOLLS.—

(1) IN GENERAL.—Tolls may be charged under paragraphs (4) and (5) of subsection (b) not-

withstanding section 301 and, except as provided in paragraphs (2) and (3), subject to the requirements of section 129.

(2) HOV FACILITIES ON THE INTERSTATE SYSTEM.—Notwithstanding section 129, tolls may be charged under paragraphs (4) and (5) of subsection (b) on a HOV facility on the Interstate System.

(3) EXCESS TOLL REVENUES.—If a State agency makes a certification under section 129(a)(3) with respect to toll revenues collected under paragraphs (4) and (5) of subsection (b), the State, in the use of toll revenues under that sentence, shall give priority consideration to projects for developing alternatives to single occupancy vehicle travel and projects for improving highway safety.

(d) HOV FACILITY MANAGEMENT, OPERATION, MONITORING, AND ENFORCEMENT.—

(1) IN GENERAL.—A State agency that allows vehicles to use a HOV facility under paragraph (4) or (5) of subsection (b) in a fiscal year shall certify to the Secretary that the agency will carry out the following responsibilities with respect to the facility in the fiscal year:

(A) Establishing, managing, and supporting a performance monitoring, evaluation, and reporting program for the facility that provides for continuous monitoring, assessment, and reporting on the impacts that the vehicles may have on the operation of the facility and adjacent highways.

(B) Establishing, managing, and supporting an enforcement program that ensures that the facility is being operated in accordance with the requirements of this section.

(C) Limiting or discontinuing the use of the facility by the vehicles if the presence of the vehicles has degraded the operation of the facility.

(2) DEGRADED FACILITY.—

(A) DEFINITION OF MINIMUM AVERAGE OPERATING SPEED.—In this paragraph, the term ''minimum average operating speed'' means—

(i) 45 miles per hour, in the case of a HOV facility with a speed limit of 50 miles per hour or greater; and

(ii) not more than 10 miles per hour below the speed limit, in the case of a HOV facility with a speed limit of less than 50 miles per hour.

(B) STANDARD FOR DETERMINING DEGRADED FACILITY.—For purposes of paragraph (1), the operation of a HOV facility shall be considered to be degraded if vehicles operating on the facility are failing to maintain a minimum average operating speed 90 percent of the time over a consecutive 180-day period during morning or evening weekday peak hour periods (or both).

(C) MANAGEMENT OF LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—In managing the use of HOV lanes by low emission and energy-efficient vehicles that do not meet applicable occupancy requirements, a State agency may increase the percentages described in subsection (f)(3)(B)(i).

(e) CERTIFICATION OF LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—Not later than 180 days after the date of enactment of this section, the Administrator of the Environmental Protection Agency shall—

(1) issue a final rule establishing requirements for certification of vehicles as low emission and energy-efficient vehicles for purposes of this section and requirements for the labeling of the vehicles; and

(2) establish guidelines and procedures for making the vehicle comparisons and performance calculations described in subsection (f)(3)(B), in accordance with section 32908(b) of title 49.

(f) DEFINITIONS.—In this section, the following definitions apply:

(1) ALTERNATIVE FUEL VEHICLE.—The term ''alternative fuel vehicle'' means a vehicle that is operating on—

(A) methanol, denatured ethanol, or other alcohols;

(B) a mixture containing at least 85 percent of methanol, denatured ethanol, and other alcohols by volume with gasoline or other fuels;

(C) natural gas;

(D) liquefied petroleum gas;

(E) hydrogen;

(F) coal derived liquid fuels;

(G) fuels (except alcohol) derived from biological materials;

(H) electricity (including electricity from solar energy); or

(I) any other fuel that the Secretary prescribes by regulation that is not substantially petroleum and that would yield substantial energy security and environmental benefits, including fuels regulated under section 490 of title 10, Code of Federal Regulations (or successor regulations).

(2) HOV FACILITY.—The term ''HOV facility'' means a high occupancy vehicle facility.

(3) LOW EMISSION AND ENERGY-EFFICIENT VEHICLE.—The term ''low emission and energy-efficient vehicle'' means a vehicle that—

(A) has been certified by the Administrator as meeting the Tier II emission level established in regulations prescribed by the Administrator under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year vehicle; and

(B)(i) is certified by the Administrator of the Environmental Protection Agency, in consultation with the manufacturer, to have achieved not less than a 50-percent increase in city fuel economy or not less than a 25-percent increase in combined city-highway fuel economy (or such greater percentage of city or city-highway fuel economy as may be determined by a State under subsection (d)(2)(C)) relative to a comparable vehicle that is an internal combustion gasoline fueled vehicle (other than a vehicle that has propulsion energy from onboard hybrid sources); or

(ii) is an alternative fuel vehicle.

(4) PUBLIC TRANSPORTATION VEHICLE.—The term ''public transportation vehicle'' means a vehicle that—

(A) provides designated public transportation (as defined in section 221 of the Amer-

icans with Disabilities Act of 1990 (42 U.S.C. 12141) or provides public school transportation (to and from public or private primary, secondary, or tertiary schools); and

(B)(i) is owned or operated by a public entity;

(ii) is operated under a contract with a public entity; or

(iii) is operated pursuant to a license by the Secretary or a State agency to provide motorbus or school vehicle transportation services to the public.

(5) STATE AGENCY.—

(A) IN GENERAL.—The term ''State agency'', as used with respect to a HOV facility, means an agency of a State or local government having jurisdiction over the operation of the facility.

(B) INCLUSION.—The term ''State agency'' includes a State transportation department.

(Added Pub. L. 109–59, title I, §1121(a), Aug. 10, 2005, 119 Stat. 1192; amended Pub. L. 110–244, title I, §101(p), June 6, 2008, 122 Stat. 1576.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (e), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

AMENDMENTS

2008—Subsec. (b)(5)(C). Pub. L. 110–244 substituted ''paragraph (4)'' for ''paragraph (3)''.

[§§ 181 to 190. Renumbered §§ 601 to 610]

CODIFICATION

Subchapter II heading ''INFRASTRUCTURE FINANCE'' was struck out and sections 181 to 190, which comprised subchapter II of this chapter, were renumbered sections 601 to 610, respectively, and transferred to follow the analysis of chapter 6 of this title, by Pub. L. 109–59, title I, §1602(b)(6)(B), (d), Aug. 10, 2005, 119 Stat. 1247, as amended by Pub. L. 110–244, title I, §101(f), June 6, 2008, 122 Stat. 1574.

CHAPTER 2—OTHER HIGHWAYS

Sec.
201. Authorizations.
202. Allocations.
203. Availability of funds.
204. Federal lands highways program.[1]
205. Forest development roads and trails.
206. Recreational trails program.
[207 to 209. Repealed.]
210. Defense access roads.
[211. Repealed.]
212. Inter-American Highway.
[213. Repealed.]
214. Public lands development roads and trails.
215. Territorial highway program.
216. Darien Gap Highway.
217. Bicycle transportation and pedestrian walkways.
218. Alaska Highway.
[219. Repealed.]

AMENDMENTS

2005—Pub. L. 109–59, title I, §1118(b)(3), Aug. 10, 2005, 119 Stat. 1181, substituted ''Territorial highway program'' for ''Territories highway development program'' in item 215.

1998—Pub. L. 105–178, title I, §1112(b), June 9, 1998, 112 Stat. 151, substituted ''Recreational trails program'' for ''Repealed'' in item 206.

1987—Pub. L. 100–17, title I, §133(e)(1), Apr. 2, 1987, 101 Stat. 173, struck out items 211 ''Timber access road hearings'', 213 ''Rama Road'', and 219 ''Safer of off-system roads''.

1983—Pub. L. 97–424, title I, §126(e)(1), Jan. 6, 1983, 96 Stat. 2115, substituted ''Allocations'' for ''Apportionment for allocation'' in item 202.

Pub. L. 97–424, title I, §126(e)(2), Jan. 6, 1983, 96 Stat. 2115, substituted ''Federal lands highways programs'' for ''Forest highways'' in item 204.

Pub. L. 97–424, title I, §126(e)(3), Jan. 6, 1983, 96 Stat. 2116, substituted ''Repealed'' in items 206 through 209 which read ''Park roads and trails'', ''Parkways'', ''Indian reservation roads'', ''Public lands highways'', respectively.

1976—Pub. L. 94–280, title I, §135(b), May 5, 1976, 90 Stat. 442, substituted item 219 ''Safer of off-system roads'' for ''Off-system roads''.

1975—Pub. L. 93–643, §122(b), Jan. 4, 1975, 88 Stat. 2290, added item 219.

1973—Pub. L. 93–87, title I, §§124(b), 127(a)(2), Aug. 13, 1973, 87 Stat. 262, 264, added items 217 and 218.

1970—Pub. L. 91–605, title I, §§112(b), 113(b), Dec. 31, 1970, 84 Stat. 1721, 1722, added items 215 and 216.

1962—Pub. L. 87–866, §6(c), Oct. 23, 1962, 76 Stat. 1147, added item 214.

§ 201. Authorizations

The provision of this title shall apply to all unappropriated authorizations contained in prior Acts, and also to all unexpended appropriations heretofore made, providing for the expenditure of Federal funds on the following classes of highways: Forest highways, forest development roads and trails, park road, parkways, Indian reservation roads, refuge roads, public lands highways, and defense access roads. All such authorizations and appropriations shall continue in full force and effect, but hereafter obligations entered into and expenditures made pursuant thereto shall be subject to the provisions of this title.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 906; Pub. L. 97–424, title I, §126(f), Jan. 6, 1983, 96 Stat. 2116; Pub. L. 105–178, title I, §1115(e)(1), June 9, 1998, 112 Stat. 158.)

AMENDMENTS

1998—Pub. L. 105–178 inserted ''refuge roads,'' after ''Indian reservation roads,''.

1983—Pub. L. 97–424 substituted ''park road'' for ''park roads and trails'' after ''forest development roads and trails,''.

§ 202. Allocations

(a) ALLOCATION BASED ON NEED.—

(1) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate sums authorized to be appropriated for the fiscal year for forest development roads and trails according to the relative needs of the various national forests and grasslands.

(2) PLANNING.—The allocation under paragraph (1) shall be consistent with the renewable resource and land use planning for the various national forests.

(b) ALLOCATION FOR PUBLIC LANDS HIGHWAYS.—

(1) PUBLIC LANDS HIGHWAYS.—

(A) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate 34 percent of the sums authorized to be appropriated for that fiscal year for public lands highways among those States having unap-

[1] So in original. Does not conform to section catchline.