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 L. 97–327, §4(b), Oct. 15, 1982, 96 Stat. 1612; repealed Pub.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 Interstate 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.