

(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<sup>1</sup> 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 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

<sup>1</sup> So in original. Probably should be “1702”.

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 allocated 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 modify-