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

Title 23 Former Sections	*Title 23 New Sections*
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 L. 85–767, Aug. 27, 1958, 72 Stat. 919, repealed the sections or parts of sections of the Revised Statutes or Statutes at Large covering provisions codified in this title.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.

TITLE REFERRED TO IN OTHER SECTIONS

This title is referred to in title 16 section 3172; title 26 section 9503; title 40 sections 345c, 818; title 40 App. section 201; title 42 sections 7506, 7509; title 49 sections 5304, 5305, 5306, 5307, 5316, 5334.

CHAPTER 1—FEDERAL-AID HIGHWAYS

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AMENDMENTS

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 ''Prevailing 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.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 215, 402, 408, 410 of this title; title 49 sections 5316, 5317.

§101. Definitions and declaration of policy

(a) As used in this title, unless the context requires otherwise—

The term ''apportionment'' in accordance with section 104 of this title includes unexpended apportionments made under prior acts.

The term ''construction'' means the supervising, inspecting, actual building, and all expenses 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, locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration in the Department of Commerce) resurfacing, restoration, and rehabilitation, acquisition of rights-of-way, relocation assistance, elimination of hazards of railway grade crossings, elimination of roadside obstacles, acquisition of replacement housing sites, acquisition and rehabilitation, relocation, and construction of replacement housing, and 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. The term also includes capital improvements which directly facilitate an effective vehicle weight enforcement program, such as scales (fixed and portable), scale pits, scale installation, and scale houses and also includes costs incurred by the State in performing Federal-aid project related audits which directly benefit the Federal-aid highway program.

The term ''county'' includes corresponding units of government under any other name in States which do not have county organizations, and likewise in those States in which the county government does not have jurisdiction over highways it may be construed to mean any local government unit vested with jurisdiction over local highways.

The term ''Federal lands highways'' means forest highways, public lands highways, park roads, parkways, and Indian reservation roads which are public roads.

The term ''forest road or trail'' means a road or trail wholly or partly within, or adjacent to, and serving the National Forest system and which is necessary for the protection, administration, and utilization of the National Forest system and the use and development of its resources.

The term ''forest development roads and trails'' means a forest road or trail under the jurisdiction of the Forest Service.

The term ''forest highway'' means a forest road under the jurisdiction of, and maintained by, a public authority and open to public travel.

The term ''highway'' includes roads, streets, and parkways, and also includes rights-of-way, bridges, railroad-highway crossings, tunnels, drainage structures, signs, guardrails, and protective structures, in connection with highways. It further includes that portion of any interstate or international bridge or tunnel and the approaches thereto, the cost of which is assumed by a State highway 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.

The term ''Federal-aid highways'' means highways eligible for assistance under this chapter other than highways classified as local roads or rural minor collectors.

The term ''highway safety improvement project'' means a project which 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 high accident potential locations.

The term ''Indian reservation roads'' means public roads that are located within or provide access to an Indian reservation or Indian trust land or restricted Indian land which 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.

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

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.

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

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.

The term ''project agreement'' means the formal instrument to be executed by the State highway department and the Secretary as required by the provisions of subsection (a) of section 110 of this title.

The term ''public lands development roads and trails'' means those roads or trails which the Secretary of the Interior determines are of primary importance for the development, protection, administration, and utilization of public lands and resources under his control.

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.

The term ''public road'' means any road or street under the jurisdiction of and maintained by a public authority and open to public travel.

The term ''rural areas'' means all areas of a State not included in urban areas.

The term ''Secretary'' means Secretary of Transportation.

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. Boundaries shall, at a minimum, encompass the entire urbanized area within a State as designated by the Bureau of the Census.

The term ''State'' means any one of the fifty States, the District of Columbia, or Puerto Rico.

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 highway department.

The term ''State highway department'' means that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction.

The term ''Federal-aid system'' means any one of the Federal-aid highway systems described in section 103 of this title.

The term ''National Highway System'' means the Federal-aid highway system described in subsection (b) of section 103 of this title.

The term ''Interstate System'' means the Dwight D. Eisenhower National[1] System of Interstate and Defense Highways described in subsection (e) of section 103 of this title.

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.

The term ''carpool project'' means any project to encourage the use of carpools and vanpools, including but not limited to provision of car-

[1] So in original. The word ''National'' probably should not appear.

pooling opportunities to the elderly and handicapped, 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.

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.

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.

The term ''operational improvement'' means 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 such other capital improvements to public roads as the Secretary may designate, by regulation; except that such term 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.

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 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. Such boundaries shall, as a minimum, encompass 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.

The term ''transportation enhancement activities'' means, with respect to any project or the area to be served by the project, provision of facilities for pedestrians and bicycles, acquisition of scenic easements and scenic or historic sites, scenic or historic highway programs, landscaping and other scenic beautification, historic preservation, rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals), preservation of abandoned railway corridors (including the conversion and use thereof for pedestrian or bicycle trails), control and removal of outdoor advertising, archaeological planning and research, and mitigation of water pollution due to highway runoff.

(b) It is hereby declared to be in the national interest to accelerate the construction of the Federal-aid highway systems, including The Dwight D. Eisenhower System of Interstate and Defense Highways, since many of such highways, or portions thereof, are in fact inadequate to meet the needs of local and interstate commerce, for the national and civil defense.

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. 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.

It is further declared that since the Interstate System is now in the final phase of completion it shall be the national policy that increased emphasis be placed on the construction and reconstruction of the other Federal-aid systems in accordance with the first paragraph of this subsection, 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.

(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 uti-

lized 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.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), is Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 885, as amended, which revised, codified, and reenacted this title. For complete classification of this Act to the Code, see Tables.

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

AMENDMENTS

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''.

CHANGE OF NAME

Coast and Geodetic Survey consolidated with National Weather Bureau in 1965 to form Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318. Environmental Science Services Administration abolished in 1970 and its personnel, property, records, etc., transferred to National Oceanic and Atmospheric Administration by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat 2090. By order of Acting Associate Administrator of National Oceanic and Atmospheric Administration, 35 F.R. 19249, Dec. 19, 1970, Coast and Geodetic Survey redesignated National Ocean Survey. See notes under section 311 of Title 15, Commerce and Trade.

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 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 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 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 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 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.''

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.

STATE INFRASTRUCTURE BANK PILOT PROGRAM

Section 350 of Pub. L. 104–59 provided that:

''(a) IN GENERAL.—

''(1) COOPERATIVE AGREEMENTS.—Subject to the provisions of this section, the Secretary [of Transportation] may enter into cooperative agreements with not to exceed 10 States for the establishment of State infrastructure banks and multistate infrastructure banks for making loans and providing other assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section.

''(2) INTERSTATE COMPACTS.—Congress grants consent to 2 or more of the States, entering into a cooperative agreement under paragraph (1) with the Secretary for the establishment of a multistate infrastructure bank, to enter into an interstate compact establishing such bank in accordance with this section.

''(b) FUNDING.—

''(1) SEPARATE ACCOUNTS.—An infrastructure bank established under this section shall maintain a separate highway account for Federal funds contributed to the bank under paragraph (2) and a separate transit account for Federal funds contributed to the bank under paragraph (3). No Federal funds contributed or credited to an account of an infrastructure bank established under this section may be commingled with Federal funds contributed or credited to any other account of such bank.

''(2) HIGHWAY ACCOUNT.—Notwithstanding any other provision of law, the Secretary may allow, subject to subsection (g)(1), a State entering into a cooperative agreement under this section to contribute not to exceed—

''(A) 10 percent of the funds apportioned to the State for each of fiscal years 1996 and 1997 under each of sections 104(b)(1), 104(b)(3), 104(b)(5)(B), 144, and 160 of title 23, United States Code, and section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 [Pub. L. 102–240, 23 U.S.C. 104 note]; and

''(B) 10 percent of the funds allocated to the State for each of such fiscal years under each of section 157 of such title and section 1013(c) of such Act [23 U.S.C. 157 note];

into the highway account of the infrastructure bank established by the State. Federal funds contributed to such account under this paragraph shall constitute for purposes of this section a capitalization grant for the highway account of the infrastructure bank.

''(3) TRANSIT ACCOUNT.—Notwithstanding any other provision of law, the Secretary may allow, subject to subsection (g)(1), a State entering into a cooperative agreement under this section, and any other Federal transit grant recipient, to contribute not to exceed 10 percent of the funds made available to the State or other Federal transit grant recipient in each of fiscal years 1996 and 1997 for capital projects under sections 5307, 5309, and 5311 of title 49, United States Code, into the transit account of the infrastructure bank established by the State. Federal funds contributed to such account under this paragraph shall constitute for purposes of this section a capitalization grant for the transit account of the infrastructure bank.

''(4) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—Funds that are apportioned or allocated to a State under section 104(b)(3) or 160 of title 23, United States Code, or under section 1013(c) or 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 [Pub. L. 102–240, 23 U.S.C. 104 note, 157 note] and attributed to urbanized areas of a State with an urbanized population of over 200,000 under section 133(d)(3) of such title may be used to provide assistance with respect to a project only if the metropolitan planning organization designated for such area concurs, in writing, with the provision of such assistance.

''(c) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—An infrastructure bank established under this section may make loans or provide other assistance to a public or private entity in an amount equal to all or part of the cost of carrying out a project eligible for assistance under this section. The amount of any loan or other assistance provided for such project may be subordinated to any other debt financing for the project. Initial assistance provided with respect to a project from Federal funds contributed to an infrastructure bank under this section may not be made in the form of a grant.

''(d) QUALIFYING PROJECTS.—Federal funds in the highway account of an infrastructure bank established under this section may be used only to provide assistance with respect to construction of Federal-aid highways. Federal funds in the transit account of such bank may be used only to provide assistance with respect to capital projects.

''(e) INFRASTRUCTURE BANK REQUIREMENTS.—In order to establish an infrastructure bank under this section, each State establishing the bank shall—

''(1) contribute, at a minimum, in each account of the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitalization grant made to the State and contributed to the bank; except that if the contribution is into the highway account of the bank and the State has a lower non-Federal share under section 120(b) of title 23, United States Code, such percentage shall be adjusted by the Secretary to correspond with such lower non-Federal share;

''(2) ensure that the bank maintains on a continuing basis an investment grade rating on its debt issuances or has a sufficient level of bond or debt financing instrument insurance to maintain the viability of the bank;

''(3) ensure that investment income generated by funds contributed to an account of the bank will be—

''(A) credited to the account;

''(B) available for use in providing loans and other assistance to projects eligible for assistance from the account; and

''(C) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

''(4) provide that the repayment of a loan or other assistance from an account of the bank under this section shall be consistent with the repayment provisions of section 129(a)(7) of title 23, United States Code, except to the extent the Secretary determines that such provisions are not consistent with this section;

''(5) ensure that any loan from the bank will 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;

''(6) ensure that repayment of any loan from the bank will commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later;

''(7) ensure that the term for repaying any loan will not exceed 30 years after the date of the first payment on the loan under paragraph (6); and

''(8) require the bank to make an annual report to the Secretary on its status no later than September 30, 1996, and September 30, 1997, and to make such other reports as the Secretary may require by guidelines.

''(f) LIMITATION ON REPAYMENTS.—Notwithstanding any other provision of law, the repayment of a loan or other assistance provided from an infrastructure bank under this section may not be credited towards the non-Federal share of the cost of any project.

''(g) SECRETARIAL REQUIREMENTS.—In administering this section, the Secretary shall—

''(1) ensure that Federal disbursements shall be at a rate consistent with historic rates for the Federal-aid highway program and the Federal transit program, respectively;

''(2) issue guidelines to ensure that all requirements of title 23, United States Code, or title 49, United States Code, that would otherwise apply to funds made available under such title and projects assisted with such funds apply to—

''(A) funds made available under such title and contributed to an infrastructure bank established under this section; and

''(B) projects assisted by the bank through the use of such funds;

except to the extent that the Secretary determines that any requirement of such title is not consistent with the objectives of this section; and

''(3) specify procedures and guidelines for establishing, operating, and providing assistance from the bank.

''(h) UNITED STATES NOT OBLIGATED.—The contribution of Federal funds into an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party, nor shall any third party have any right against the United States for payment solely by virtue of the contribution. Any security or debt financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

''(i) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31, United States Code, shall not apply to funds contributed under this section.

''(j) PROGRAM ADMINISTRATION.—For each of fiscal years 1996 and 1997, a State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.

''(k) SECRETARIAL REVIEW.—The Secretary shall review the financial condition of each infrastructure bank established under this section and transmit to Congress a report on the results of such review not later than March 1, 1997. In addition, the report shall contain—

''(1) an evaluation of the pilot program conducted under this section and the ability of such program to increase public investment and attract non-Federal capital; and

''(2) recommendations of the Secretary as to whether the program should be expanded or made a part of the Federal-aid highway and transit programs.

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

''(1) CAPITAL PROJECT.—The term 'capital project' has the meaning such term has under section 5302 of title 49, United States Code.

''(2) CONSTRUCTION; FEDERAL-AID HIGHWAY.—The terms 'construction' and 'Federal-aid highway' have the meanings such terms have under section 101 of title 23, United States Code.

''(3) OTHER ASSISTANCE.—The term 'other assistance' includes any use of funds in an infrastructure bank—

''(A) to provide credit enhancements;

''(B) to serve as a capital reserve for bond or debt instrument financing;

''(C) to subsidize interest rates;

''(D) to ensure the issuance of letters of credit and credit instruments;

''(E) to finance purchase and lease agreements with respect to transit projects;

''(F) to provide bond or debt financing instrument security; and

''(G) to provide other forms of debt financing and methods of leveraging funds that are approved by the Secretary and that relate to the project with respect to which such assistance is being provided.

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

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. 102–240, title I, § 1003(b), Dec. 18, 1991, 105 Stat. 1919, provided that:

''(1) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts authorized to be appropriated under titles I (other than part B), III, V, and VI of this Act [see Tables for classification] shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

''(2) DEFINITIONS.—For purposes of this subsection, the following definitions apply:

''(A) SMALL BUSINESS CONCERN.—The term 'small business concern' has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632); except that such 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 $15,370,000, as adjusted by the Secretary for inflation.

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

''(3) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in paragraph (1) and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are also 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. Such 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) STUDY.—

''(A) IN GENERAL.—The Comptroller General shall conduct a study of the disadvantaged business enterprise program of the Federal Highway Administration (hereinafter in this paragraph referred to as the 'program').

''(B) CONTENTS.—The study under this paragraph shall include the following:

''(i) GRADUATION.—A determination of—

''(I) the percentage of disadvantaged business enterprises which have enrolled in the program and graduated after a period of 3 years;

''(II) the number of disadvantaged business enterprises which have enrolled in the program and not graduated after a period of 3 years;

''(III) whether or not the graduation date of any of the disadvantaged business enterprises described in subclause (II) should have been accelerated;

''(IV) since the program has no graduation time requirements, how many years would appear reasonable for disadvantaged business enterprises to participate in the program;

''(V) the length of time the average small nondisadvantaged business enterprise takes to be successful in the highway construction field as compared to the average disadvantaged business enterprise; and

''(VI) to what degree are disadvantaged business enterprises awarded contracts once they are no longer participating in the disadvantaged business program.

''(ii) OUT-OF-STATE CONTRACTING.—A determination of which State transportation programs meet the requirement of the program for 10 percent participation by disadvantaged business enterprises by

contracting with contractors located in another State and a determination to what degree prime contractors use out-of-State disadvantaged business enterprises even when disadvantaged business enterprises exist within the State to meet the 10 percent participation goal and reasons why this occurs.

''(iii) PROGRAM ADJUSTMENTS.—A determination of whether or not adjustments in the program could be made with respect to Federal and State participation in training programs and with respect to meeting capital needs and bonding requirements.

''(iv) SUCCESS RATE.—Recommendations concerning whether or not adjustments described in clause (iii) would continue to encourage minority participation in the program and improve the success rate of the disadvantaged business enterprises.

''(v) PERFORMANCE AND FINANCIAL CAPABILITIES.—Recommendations for additions and revisions to criteria used to determine the performance and financial capabilities of disadvantaged business enterprises enrolled in the program.

''(vi) ENFORCEMENT MECHANISMS.—A determination of whether the current enforcement mechanisms are sufficient to ensure compliance with the disadvantaged business enterprise participation requirements.

''(vii) ADDITIONAL COSTS.—A determination of additional costs incurred by the Federal Highway Administration in meeting the requirement of the program for 10 percent participation by disadvantaged business enterprises as well as a determination of benefits of the program.

''(viii) EFFECT ON INDUSTRY.—A determination of how the program is being implemented by the construction industry and the effects of the program on all segments of the industry.

''(ix) CERTIFICATION.—An analysis of the certification process for Federal-aid highway and transit programs, including a determination as to whether the process should be uniform and permit State-to-State reciprocity and how certification criteria and procedures are being implemented by the States.

''(x) GOALS.—A determination of how the Federal goal is being implemented by the States, including the waiver process, and the impact of the goal on those individuals presumed to be socially and economically disadvantaged.

''(C) REPORT.—Not later than 12 months after the date of the enactment of this Act [Dec. 18, 1991], the Comptroller General shall transmit to 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 this paragraph.''

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

HIGHWAY USE TAX EVASION PROJECTS

Section 1040 of Pub. L. 102–240, 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, provided that:

''(a) IN GENERAL.—The Secretary shall use funds made available by subsection (e)[(f)] to carry out highway use tax evasion projects in accordance with this section. Such funds may be allocated to the Internal Revenue Service and the States at the discretion of the Secretary. The Secretary shall not impose any condition on the use of funds allocated to the Internal Revenue Service under this section.

''(b) LIMITATION ON USE OF FUNDS.—Funds made available to carry out this section shall be used only to expand efforts to enhance motor fuel tax enforcement, fund additional Internal Revenue Service staff but only to carry out functions described in this subsection, supplement motor fuel tax examinations and criminal investigations, develop automated data processing tools to monitor motor fuel production and sales, evaluate and implement registration and reporting requirements for motor fuel taxpayers, reimburse State expenses that supplement existing fuel tax compliance efforts, and analyze and implement programs to reduce tax evasion associated with other highway use taxes.

''(c) MAINTENANCE OF EFFORT.—The Secretary may not make a grant to a State under this section in a fiscal year unless the State certifies that aggregate expenditure of funds of the State, exclusive of Federal funds, for motor fuel tax enforcement activities will be maintained at a level which does not fall below the average level of such expenditure for its last 2 fiscal years.

''(d) REPORTS.—

''(1) IN GENERAL.—On March 31 of each year, the Secretary shall transmit to the Committee on Environment and Public Works and the Committee on Finance of the Senate and the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives a report on motor fuel tax enforcement activities under this section and the expenditure of funds made available to carry out this section, including expenses for the hiring of additional staff by any Federal agency.

''(2) USE OF REVENUES FOR ENFORCEMENT OF HIGHWAY TRUST FUND TAXES.—The Secretary of the Treasury shall, at least 60 days before the beginning of each fiscal year (after fiscal year 1992) for which funds are to be allocated to the Internal Revenue Service under this section, 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)].

''(e) USE OF DYE AND MARKERS.—

''(1) STUDY.—The Secretary, in consultation with the Internal Revenue Service, shall conduct a study to determine the feasibility and the desirability of using dye and markers to aid in motor fuel tax enforcement activities and other purposes.

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

''(f) FUNDING.—

''(1) HIGHWAY TRUST FUND.—There shall be available to the Secretary for carrying out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $5,000,000 for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 and $2,500,000 for the period of October 1, 1997, through March 31, 1998. Such sums shall be available for obligation in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States Code; except that the Federal share for projects carried out under this section shall be 100 percent and the sums shall remain available until expended.

''(2) GENERAL FUND.—There are authorized to be appropriated to carry out this section $2,500,000 per fiscal year for each of fiscal years 1992 through 1997. Such sums shall remain available until expended.

''(g) STATE DEFINED.—For purposes of this section, the term 'State' means the 50 States and the District of Columbia.''

Section 8002(g), (h) of Pub. L. 102–240 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 1040 of this Act [set out above] 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) TAX EVASION REPORT.—The Secretary of Transportation shall also submit each report prepared pursuant to section 1040(d) of this Act to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than the applicable date specified therein.''

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 sce-

nic, 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, 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

Section 154 of Pub. L. 100–17 provided that: ''If a State has a practice of erecting on projects under actual construction without Federal-aid highway assistance signs which indicate the source or sources of any funds used to carry out such projects, such State shall erect on all projects under actual construction with any funds made available out of the Highway Trust Fund (other than the Mass Transit Account) signs which are visible to highway users and which indicate each governmental source of funds being used to carry out such federally assisted projects and the amount of funds being made available by each such source.''

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

Section 165 of Pub. L. 97–424, 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, provided that:

''(a) Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated by this Act or by any Act amended by this Act [see Short Title of 1983 Amendment note above] or, after the date of enactment of this Act [Jan. 6, 1983], any funds authorized to be appropriated to carry out this Act, title 23, United States Code, or the Surface Transportation Assistance Act of 1978 [see Short Title of 1978 Amendment note above] and administered by the Department of Transportation, unless steel, iron, and manufactured products used in such project are produced in the United States.

''(b) The provisions of subsection (a) of this section shall not apply where the Secretary finds—

''(1) that their application would be inconsistent with the public interest;

''(2) that such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

''(3) [Repealed. Pub. L. 103–272, § 4(r)(2), July 5, 1994, 108 Stat. 1371.]

''(4) that inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent.

''(c) For purposes of this section, in calculating components' costs, labor costs involved in final assembly shall not be included in the calculation.

''(d) The Secretary of Transportation shall not impose any limitation or condition on assistance provided under this Act [see Short Title of 1983 Amendment note above], the Surface Transportation Assistance Act of 1978 [see Short Title of 1978 Amendment note above] or title 23, United States Code, which restricts any State from imposing more stringent requirements than this section on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with such assistance or restricts any recipient of such assistance from complying with such State imposed requirements.

''(e) [Repealed section 401 of Pub. L. 95–599, set out below.]

''(e) REPORT ON WAIVERS.—By January 1, 1995, the Secretary shall submit to Congress a report on the purchases from foreign entities waived under subsection (b) in fiscal years 1992 and 1993, indicating the dollar value of items for which waivers were granted under subsection (b).

''(f) INTENTIONAL VIOLATIONS.—If it has been determined by a court or Federal agency that any person intentionally—

''(1) affixed a label bearing a 'Made in America' inscription, or any inscription with the same meaning, to any product used in projects to which this section applies, sold in or shipped to the United States that was not made in the United States; or

''(2) represented that any product used in projects to which this section applies, sold in or shipped to the United States that was not produced in the United States, was produced in the United States;

that person shall be ineligible to receive any contract or subcontract made with funds authorized under the Intermodal Surface Transportation Efficiency Act of 1991 [Pub. L. 102–240, see Short Title of 1991 Amendment note set out under section 101 of Title 49, Transportation] pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

''(g) LIMITATION ON APPLICABILITY OF WAIVERS TO PRODUCTS PRODUCED IN CERTAIN FOREIGN COUNTRIES.—If the Secretary, in consultation with the United States Trade Representative, determines that—

''(1) a foreign country is a party to an agreement with the United States and pursuant to that agreement the head of an agency of the United States has waived the requirements of this section, and

''(2) the foreign country has violated the terms of the agreement by discriminating against products covered by this section that are produced in the United States and are covered by the agreement,

the provisions of subsection (b) shall not apply to products produced in that foreign country.''

[Section 337(a) of Pub. L. 100–17 provided that:

''(1)(A) Effective October 1, 1989, section 165(b)(3) of the Surface Transportation Assistance Act of 1982 [section 165(b)(3) of Pub. L. 97–424, set out above] is amended by striking out '50' and inserting in lieu thereof '55'.

''(B) Effective October 1, 1991, section 165(b)(3) of the Surface Transportation Assistance Act of 1982 is amended by striking out '55' and inserting in lieu thereof '60'.

''(2)(A) Except as provided in subparagraph (B), the amendments made by subparagraphs (A) and (B) of paragraph (1) shall apply only to contracts entered into on or after their respective effective dates.

''(B) The amendments made by paragraph (1) shall not apply with respect to any supplier or contractor or any successor in interest or assignee which qualified under the provisions of section 165(b)(3) of the Surface Transportation Assistance Act of 1982 prior to the date of enactment of this Act [Apr. 2, 1987] under a contract entered into prior to April 1, 1992.'']

[Section 337(d) of Pub. L. 100–17 provided that: ''The amendments made by subsections (b) and (c) of this section [amending section 165 of Pub. L. 97–424, set out above] shall not apply to any contract awarded pursuant to bids which were outstanding on the date of enactment of this Act [Apr. 2, 1987].'']

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 re-

alinement 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. See section 307(e) of this title.

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.''

DEFINITION OF ''SECRETARY''

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.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 157, 204 of this title; title 16 sections 460*l*–6a, 3911; title 49 sections 104, 47107.

§ 102. Program efficiencies

(a) HOV PASSENGER REQUIREMENTS.—A State highway 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.

(b) ENGINEERING COST REIMBURSEMENT.—If onsite construction of, or acquisition of right-of-way for, a highway project is not commenced within 10 years 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.)

REFERENCES IN TEXT

Section 163 of the Surface Transportation Assistance Act of 1982, referred to in subsec. (a), is section 163 of Pub. L. 97–424, which is set out as a note under section 146 of this title.

AMENDMENTS

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 purposes of this title, the Federal-aid systems are the Interstate System and the National Highway System.

(b) NATIONAL HIGHWAY SYSTEM.—

(1) PURPOSE.—The purpose of the National Highway System is to provide an interconnected system of principal arterial routes which will serve major population centers, international border crossings, ports, airports, public transportation facilities, and other intermodal transportation facilities and other major travel destinations; meet national defense requirements; and serve interstate and interregional travel.

(2) COMPONENTS.—The National Highway System shall consist of the following:

(A) Highways designated as part of the Interstate System under subsection (e) and section 139 of this title.

(B) Other urban and rural principal arterials and highways (including toll facilities) which provide motor vehicle access between such an arterial and a major port, airport, public transportation facility, or other intermodal transportation facility. The States, in cooperation with local and regional officials, shall propose to the Secretary arterials and highways for designation to the National Highway System under this paragraph. In urbanized areas, the local officials shall act through the metropolitan planning organizations designated for such areas under section 134 of this title. The routes on the National Highway System, as shown on the map submitted by the Secretary to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate in 1991, illustrating the National Highway System, shall serve as the basis for the States in proposing arterials and highways for designation to such system. The Secretary may modify or revise such proposals and submit such modified or revised proposals to Congress for approval in accordance with paragraph (3).

(C) A strategic highway network which is a network of highways which are important to the United States strategic defense policy and which provide defense access, continuity, and emergency capabilities for the movement of personnel, materiels, and equipment in both peace time and war time. Such highways may include highways on and off the Interstate System and shall be designated by the Secretary in consultation with appropriate Federal agencies and the States and be subject to approval by Congress in accordance with paragraph (3).

(D) Major strategic highway network connectors which are highways that provide motor vehicle access between major military installations and highways which are part of the strategic highway network. Such highways shall be designated by the Secretary in consultation with appropriate Federal agencies and the States and subject to approval by Congress in accordance with paragraph (3).

(3) APPROVAL OF DESIGNATIONS.—

(A) PROPOSED DESIGNATIONS.—Not later than 2 years after the date of the enactment of this section, the Secretary shall submit for approval to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a proposed National Highway System with a list and description of highways proposed to be designated to the National Highway System under this subsection and a map showing such proposed designations. In preparing the proposed system, the Secretary shall consult appropriate local officials and shall use the functional reclassification of roads and streets carried out under subsection (c) of section 1006 of the Intermodal Surface Transportation Efficiency Act of 1991.

(B) APPROVAL OF CONGRESS REQUIRED.—After September 30, 1995, no funds made available for carrying out this title may be apportioned for the National Highway System or the Interstate maintenance program under this title unless a law has been approved designating the National Highway System.

(C) MAXIMUM MILEAGE.—The mileage of highways on the National Highway System shall not exceed 155,000 miles; except that the Secretary may increase or decrease such maximum mileage by not to exceed 15 percent.

(D) EQUITABLE ALLOCATIONS OF HIGHWAY MILEAGE.—The Secretary shall provide for equitable allocation of highway mileage on the National Highway System among the States.

(4) INTERIM SYSTEM.—For fiscal years 1992, 1993, 1994, and 1995, highways classified as prin-

cipal arterials by the States shall be treated as being on the National Highway System for purposes of this title.

(5) DESIGNATION OF NHS.—The National Highway System as submitted by the Secretary of Transportation on the map entitled ''Official Submission, National Highway System, Federal Highway Administration'', and dated November 13, 1995, is hereby designated within the United States, including the District of Columbia and the Commonwealth of Puerto Rico.

(6) MODIFICATIONS TO NHS.—

(A) IN GENERAL.—Subject to paragraph (7), the Secretary may make modifications to the National Highway System that are proposed by a State or that are proposed by the State and revised by the Secretary if the Secretary determines that each of the modifications—

(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.—In proposing modifications under this paragraph, a State shall cooperate with local and regional officials. In urbanized areas, the local officials shall act through the metropolitan planning organizations designated for such areas under section 134.

(7) TRANSITIONAL RULES FOR INTERMODAL CONNECTORS.—

(A) REQUIRED SUBMISSION.—Not later than 180 days after the date of the enactment of the National Highway System Designation Act of 1995, the Secretary shall submit for approval to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives modifications to the National Highway System that are proposed by a State or that are proposed by the State and revised by the Secretary and that consist of connectors to major ports, airports, international border crossings, public transportation and transit facilities, interstate bus terminals, and rail and other intermodal transportation facilities.

(B) COOPERATION.—Paragraph (6)(B) shall apply to modifications proposed by a State under this paragraph.

(C) ELIGIBILITY.—

(i) INITIAL APPROVAL BY LAW.—Modifications proposed under subparagraph (A) may take effect only if a law has been enacted approving such modifications.

(ii) INTERIM ELIGIBILITY.—Notwithstanding clause (i), a project to construct a connector to an intermodal transportation facility described in subparagraph (A) shall be eligible for funds apportioned under section 104(b)(1) for the National Highway System if the Secretary finds that the project is consistent with criteria developed by the Secretary for construction of such connectors.

(iii) PERIOD OF ELIGIBILITY.—A project which is eligible under clause (ii) for funds apportioned under section 104(b)(1) shall remain eligible for such funds pursuant to clause (ii) only until the date of the enactment of a law described in clause (i).

(D) MODIFICATIONS AFTER INITIAL APPROVAL.—After the date of the enactment of a law described in subparagraph (C)(i), a modification consisting of a connector to an intermodal transportation facility described in subparagraph (A) may be made in accordance with paragraph (6).

(8) 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 thereof established by section 1105 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2031–2037) which was not identified on the National Highway System designated by paragraph (5).

[(c), (d) Repealed. Pub. L. 102–240, title I, §1006(b)(1), Dec. 18, 1991, 105 Stat. 1925.]

(e) INTERSTATE SYSTEM.—

(1) DESIGNATION; MILEAGE LIMITATION.—The Interstate System shall be designated within the United States, including the District of Columbia, and, except as provided in paragraphs (2) and (3) of this subsection, it shall not exceed forty-one thousand miles in total extent. It shall be so located as to connect by routes, as direct as practicable, the principal metropolitan areas, cities, and industrial centers, to serve the national defense, and to the greatest extent possible, to connect at suitable border points with routes of continental importance in the Dominion of Canada and the Republic of Mexico. The routes of this system, to the greatest extent possible, shall be selected by joint action of the State highway departments of each State and the adjoining States, subject to the approval by the Secretary as provided in subsection (f) of this section. All highways or routes included in the Interstate System as finally approved, if not already coincident with the primary system, shall be added to said system without regard to the mileage limitation set forth in subsection (b) of this section. This system may be located both in rural and urban areas.

(2) MODIFICATIONS.—In addition to the mileage authorized by the first sentence of paragraph (1) of this subsection, there is hereby authorized additional mileage for the Interstate System of five hundred miles, to be used in making modifications or revisions in the Interstate System as provided in this paragraph. Upon the request of a State highway department the Secretary may withdraw his approval of any route or portion thereof on the Interstate System within that State selected and approved in accordance with this title, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System (including urban routes necessary for metropolitan transportation) and will not be constructed as a part of the Interstate System, and if he re-

ceives 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. After the Secretary has withdrawn his approval of any such route or portion thereof the mileage of such route or portion thereof and the additional mileage authorized by the first sentence of this paragraph shall be available for the designation of interstate routes or portions thereof as provided in this subsection. The provisions of this title applicable to the Interstate System shall apply to all mileage designated under the third sentence of this paragraph. The Secretary shall not designate any Interstate route or portion thereof under authority of this paragraph after the date of enactment of the Federal Aid Highway Act of 1978.

(3) ADDITIONAL MILEAGE FOR IMPROVED EFFICIENCY.—In addition to the mileage authorized by paragraphs (1) and (2) of this subsection, there is hereby authorized additional mileage of not to exceed 1,500 miles for the designation of routes in the same manner as set forth in paragraph (1), in order to improve the efficiency and service of the Interstate System to better accomplish the purposes of that System.

(4) INTERSTATE SUBSTITUTE PROGRAM.—

(A) WITHDRAWAL OF APPROVAL.—Upon the joint request of a State Governor and the local governments concerned, the Secretary may withdraw approval of any route or portion thereof on the Interstate System which was selected and approved in accordance with this title, if the Secretary determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System and if the Secretary receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by the route or portion thereof.

(B) SUBSTITUTE PROJECTS.—When the Secretary withdraws approval under this paragraph, 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 latest Interstate System cost estimate approved by Congress, or up to and including the 1983 interstate cost estimate, whichever is earlier, subject to increase or decrease, as determined by the Secretary based on changes in construction costs of the withdrawn route or portion thereof as of the date of approval of each substitute project under this paragraph, or the date of approval of the 1983 interstate cost estimate, whichever is earlier, shall be available to the Secretary to incur obligations for the Federal share of either public mass transit projects involving the construction of fixed rail facilities or the purchase of passenger equipment including rolling stock, for any mode of mass transit, or both, or highway construction projects on any public road, or both, 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. Each project constructed under this paragraph on a Federal-aid system shall be subject to the provisions of this title applicable to such system. Each project constructed under this paragraph not on a Federal-aid system shall be subject to the provisions of this title applicable to projects on the Federal-aid secondary system.

(C) DEADLINE FOR WITHDRAWAL.—The Secretary shall not approve any withdrawal of a route under this paragraph after September 30, 1983—

(i) except that with respect to any route which on November 6, 1978, is under judicial injunction prohibiting its construction the Secretary may approve withdrawals until September 30, 1986, and

(ii) except that with respect to any route which on May 12, 1982, is under judicial injunction prohibiting its construction, the Secretary may approve withdrawals on such route until September 30, 1985.

(D) PROJECT APPROVAL; FEDERAL SHARE.—Approval by the Secretary of the plans, specifications, and estimates for a substitute project shall be deemed to be a contractual obligation of the Federal Government. The Federal share of each substitute project shall not exceed 85 percent of the cost thereof.

(E) AVAILABILITY OF FUNDS FOR SUBSTITUTE PROJECTS.—

(i) TIME PERIOD.—The sums apportioned and the sums allocated under this paragraph for public mass transit projects and for highway construction projects in a State shall remain available for obligation in such State for the fiscal year for which apportioned or allocated, as the case may be, and for the succeeding fiscal year. In the case of funds authorized to be appropriated for substitute transit projects under this paragraph for fiscal year 1993 and for substitute highway projects under this paragraph for fiscal year 1995, such funds shall remain available until expended.

(ii) REAPPORTIONMENT OR REALLOCATION.—Any sums which are apportioned or allocated to a State and are unobligated (other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a substitute project which has been submitted by the State to the Secretary for approval) at the end of the period of availability established by clause (i) shall be apportioned or allocated, as the case may be, among those States which have obligated all sums (other than such an amount) apportioned or allocated, as the case may be, to them. Such reapportionments shall be in accordance with the latest approved or adjusted estimate of the cost of completing substitute projects, and

such reallocations shall be at the discretion of the Secretary.

(F) ADMINISTRATION OF TRANSIT FUNDS.—The sums obligated for mass transit projects under this paragraph shall become part of, and be administered through, the Urban Mass Transportation Fund.

(G) AUTHORIZATION OF APPROPRIATIONS FOR HIGHWAY PROJECTS.—For the fiscal year ending September 30, 1983, $257,000,000 shall be available out of the Highway Trust Fund for expenditure at the discretion of the Secretary for projects under highway assistance programs. There shall be available, out of the Highway Trust Fund (other than the Mass Transit Account), to the Secretary for expenditure under this paragraph for projects under highway assistance programs $700,000,000 per fiscal year for each of fiscal years 1984 and 1985, $693,825,000 for fiscal year 1986, $740,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991,[1] $240,000,000 per fiscal year for each of fiscal years 1992, 1993, 1994, and 1995. Such sums may be obligated for transit substitute projects under this paragraph.

(H) DISTRIBUTION OF SUBSTITUTE HIGHWAY FUNDS.—

(i) BETWEEN DISCRETIONARY AND APPORTIONED PROGRAMS.—Subject to section 149(d) of the Federal-Aid Highway Act of 1987, 25 percent of the funds made available by subparagraph (G) for each of fiscal years 1984, 1985, 1986, 1987, 1988, 1989, 1990, and 1991 for substitute highway projects under this paragraph shall be distributed at the discretion of the Secretary. The remaining 75 percent of such funds shall be apportioned in accordance with cost estimates approved by Congress or adjusted by the Secretary. For each of fiscal years 1992, 1993, 1994, and 1995, all funds made available by subparagraph (G) shall be apportioned in accordance with cost estimates adjusted by the Secretary.

(ii) FISCAL YEARS 1985, 1986, AND 1987 APPORTIONMENTS.—The Secretary shall make a revised estimate of the cost of completing substitute highway projects under this paragraph and transmit the same to the Senate and the House of Representatives within 10 days subsequent to January 2, 1984, and upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute highway projects for fiscal years 1985, 1986, and 1987.

(iii) FISCAL YEARS 1988–1995 APPORTIONMENTS.—The Secretary shall make a revised estimate of the cost of completing substitute highway projects under this paragraph and transmit the same to the Senate and the House of Representatives as soon as practicable after the date of the enactment of the Federal-Aid Highway Act of 1987. Upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute highway projects for fiscal year 1988. If such estimate is not approved by Congress by September 30, 1987, the Secretary shall adjust such estimate in accordance with this clause and use the Federal share of the adjusted estimate in making apportionments for fiscal year 1988. The Secretary shall adjust such estimate annually thereafter in accordance with this clause and shall use the Federal share of such adjusted estimate in making apportionments for substitute highway projects for fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995. The adjustments required by this clause shall reflect previous withdrawals of interstate segments, changes in State estimates in the division of funds between substitute highway and transit projects, amounts made available in prior fiscal years, and the availability and reapportionment of funds under subparagraph (E).

(I) AUTHORIZATION OF APPROPRIATIONS FOR TRANSIT PROJECTS.—There are authorized to be appropriated for liquidation of obligations incurred for substitute transit projects under this paragraph the sums provided in section 4(g)[2] of the Federal Transit Act.

(J) DISTRIBUTION OF SUBSTITUTE TRANSIT FUNDS.—

(i) BETWEEN DISCRETIONARY AND APPORTIONED PROGRAMS.—Fifty percent of the funds appropriated for each fiscal year beginning after September 30, 1983, and ending before October 1, 1991[3] for carrying out substitute transit projects under this paragraph shall be distributed at the discretion of the Secretary. The remaining 50 percent of such funds shall be apportioned in accordance with cost estimates approved by Congress or adjusted by the Secretary. 100 percent of funds appropriated for each of fiscal years 1992 and 1993 shall be apportioned in accordance with cost estimates adjusted by the Secretary.

(ii) FISCAL YEARS 1985, 1986, AND 1987 APPORTIONMENTS.—The Secretary shall make a revised estimate of the cost of completing substitute transit projects under this paragraph and transmit the same to the Senate and the House of Representatives within 10 days subsequent to January 2, 1984, and upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute transit projects for fiscal years 1985, 1986, and 1987.

(iii) FISCAL YEARS 1988–1993 APPORTIONMENTS.—The Secretary shall make a revised estimate of the cost of completing substitute transit projects under this paragraph and transmit the same to the Senate and the House of Representatives as soon as practicable after the date of the enactment of the Federal-Aid Highway Act of 1987. Upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportion-

[1] So in original. Probably should be ‘‘, and’’.

[2] See References in Text note below.

[3] So in original. Probably should be followed by a comma.

ments for substitute transit projects for fiscal year 1988. If such estimate is not approved by Congress by September 30, 1987, the Secretary shall adjust such estimate in accordance with this clause and use the Federal share of the adjusted estimate in making apportionments for fiscal year 1988. The Secretary shall adjust such estimate annually thereafter in accordance with this clause and shall use the Federal share of such adjusted estimate in making apportionments for substitute transit projects for fiscal years 1989, 1990, 1991, 1992, and 1993. The adjustments required by this clause shall reflect previous withdrawals of Interstate segments, changes in State estimates in the division of funds between substitute highway and transit projects, amounts made available in prior fiscal years, and the availability and reapportionment of funds under subparagraph (E).

(K) REDUCTION OF INTERSTATE APPORTIONMENT.—

(i) IN GENERAL.—Unobligated apportionments for the Interstate System in any State where a withdrawal is approved under this paragraph shall, on the date of such approval, be reduced in the proportion that the Federal share of the cost of the withdrawn route or portion thereof bears to the Federal share of the total cost of all interstate routes in that State as reflected in the latest cost estimate approved by the Congress.

(ii) EXCEPTION.—In any State where the withdrawal of an interstate route or portion thereof has been approved under this section prior to the date of the enactment of the Federal-Aid Highway Act of 1976, the unobligated apportionments for the Interstate System in that State on such date of enactment shall be reduced in the proportion that the Federal share of the cost to complete such route or portion thereof, as shown in the latest cost estimate approved by Congress prior to such approval of withdrawal, bears to the Federal share of the cost of all interstate routes in that State, as shown in such cost estimate; except that the amount of such proportional reduction shall be credited with the amount of any reduction in such State's Interstate apportionment which was attributable to the Federal share of any substitute project approved under this paragraph before such date of enactment.

(L) APPLICABILITY OF CHAPTER 53 OF TITLE 49.—

(i) SUPPLEMENTARY FUNDS.—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 chapter 53 of title 49.

(ii) LABOR PROTECTION.—The provisions of section 5323(a)(1)(D) of title 49 shall apply in carrying out this paragraph.

(M) LIMITATION ON INTERSTATE DESIGNATIONS.—After the date of the enactment of the Federal-Aid Highway Act of 1978, the Secretary may not designate any mileage as part of the Interstate System pursuant to this paragraph or under any other provision of law. The preceding sentence shall not apply to a designation made under section 139 of this title.

(N) OPEN TO TRAFFIC REQUIREMENT.—After September 30, 1979, the Secretary shall not withdraw his approval under this paragraph of any route or portion thereof on the Interstate System open to traffic before the date of the proposed withdrawal. Any withdrawal of approval of any such route or portion thereof before September 30, 1979, is hereby determined to be authorized by this paragraph.

(O) LIMITATION ON SUBSTITUTION FOR STATUTORILY DESIGNATED ROUTES.—Any route or segment which was statutorily designated after March 7, 1978, to be on the Interstate System shall not be eligible for withdrawal or substitution under this subsection.

(P) RIGHT-OF-WAY PAYBACK.—

(i) ENFORCEMENT.—Of sums apportioned or allocated under this paragraph to a State, the Secretary shall not obligate for projects in such State an amount equal to the amount of Federal funds expended to purchase the right-of-way for any withdrawn route or portion thereof if the right-of-way is not first disposed of (or applied to a project in accordance with paragraph (5)(B), (6)(B), or (7)) by the State.

(ii) LIMITATION ON APPLICABILITY.—Clause (i) shall not apply to sums apportioned or allocated under this paragraph to a State for a fiscal year if the projected total amount of funds to be apportioned and allocated under this paragraph to such State in succeeding fiscal years exceeds the amount of Federal funds expended to purchase the right-of-way.

(iii) RELEASE OF FUNDS.—The Secretary may obligate for projects in a State under this paragraph any funds withheld from obligation in such State if the State repays an equivalent amount in accordance with paragraph (5)(B), (6)(B), or (7), as the case may be, or if the Secretary determines that such repayment is not required under such paragraph.

(5) LIMITATION ON REFUNDS FOR WITHDRAWALS BEFORE NOVEMBER 6, 1978.—Notwithstanding any other provision of law, in the case of any withdrawal of approval before November 6, 1978—

(A) upon the withdrawal of approval of any route or portion thereof on the Interstate System under this section, a State, subject to the approval of the Secretary, shall not be required to refund to the Highway Trust Fund any sums paid to the State for intangible costs;

(B) refund will not be required for the costs of construction items, materials, or rights-of-way of the withdrawn route or portion of the Interstate System which will be or have been applied (i) to a transportation project permissible under this title, (ii) to a public conservation or public recreation pur-

pose, or (iii) to such other public purpose as may be determined by the Secretary to be in the public interest on condition that the State shall make assurances satisfactory to the Secretary that such construction items or materials or rights-of-way have been or will be so applied by the State of any political subdivision thereof to a project under clause (i), (ii), or (iii) within 10 years from the date of the withdrawal of approval.

(6) LIMITATION ON REFUNDS FOR WITHDRAWALS ON AND AFTER NOVEMBER 6, 1978.—Notwithstanding any other provision of law—

(A) in the case of any withdrawal of approval on or after November 6, 1978, of a route or portion thereof on the Interstate System, a State, subject to the approval of the Secretary, shall not be required to refund to the Highway Trust Fund any sums paid to the State for intangible costs;

(B) in the case of any withdrawal of approval on or after November 6, 1978, of any route or portion thereof on the Interstate System under this section, a State shall not be required to refund to the Highway Trust Fund the costs of construction items, materials, or rights-of-way of the withdrawn route or portion thereof if such items, materials, and rights-of-way were acquired before November 6, 1978, if by the date of withdrawal of approval the Secretary has not approved the environmental impact statement required by the National Environmental Policy Act of 1969, and if such construction items, materials, or rights-of-way will be or have been applied (i) to a transportation project permissible under this title, (ii) to a public conservation or public recreation purpose, or (iii) to any other public purpose determined by the Secretary to be in the public interest on condition that the State gives assurances satisfactory to the Secretary that such construction items, materials, or rights-of-way have been or will be so applied by the State, or any political subdivision thereof, to a project under clause (i), (ii), or (iii) within ten years from the date of withdrawal of approval.

(7) ADDITIONAL LIMITATION ON REFUNDS.—In any case where a withdrawal of approval of a route or portion thereof on the Interstate System on or after November 6, 1978, does not come within the provisions of paragraph (6)(B) of this subsection, the State shall refund to the Highway Trust Fund the costs of construction items, materials, and rights-of-way of the withdrawn route or portion thereof, except that if the State gives assurances satisfactory to the Secretary that such items, materials, and rights-of-way have been or will be applied to a transportation project permissible under this title within ten years from the date of withdrawal of approval, the amount of such repayment shall be the difference between the amount received for such items, materials, and rights-of-way and the amount which would be received in accordance with the current Federal share applicable to the transportation project to which such items, materials, and rights-of-way were or are to be applied.

(8) PROTECTION OF PROPERTY RIGHTS.—Nothing in this subsection shall in any way alter rights under State law of persons owning property within the right-of-way immediately prior to such property being obtained by the State. The Federal share of the cost of property sold or otherwise transferred to previous owners under State law shall be refunded and credited to the unobligated balance of the State's apportionment for interstate highways.

(9) LIMITATION ON FUNDING OF MODIFIED MILEAGE PROJECTS.—Interstate mileage authorized for any State and withdrawn and transferred under the provisions of paragraph (2) of this subsection after the date of enactment of the Federal-Aid Highway Act of 1976, must be constructed by the State receiving such mileage as part of its Interstate System. Any State receiving such transfer of mileage may not, with respect to that transfer, avail itself of the optional use of Interstate funds under the second sentence of paragraph (4) of this subsection.

(f) The Secretary shall have authority to approve in whole or in part the Interstate System, as and when such systems or portions thereof are designated, or to require modifications or revisions thereof.

(g) 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. 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 that such schedule will be met, shall be removed from designation as a part of the Interstate System. No segment of the Interstate System removed under the authority of the preceding sentence shall thereafter be designated as a part of the Interstate System except as the Secretary finds necessary in the interest of national defense or for other reasons of national interest. This subsection shall not be applicable to any segment of the Interstate System referred to in section 23(a) of the Federal-Aid Highway Act of 1968.

(h) Notwithstanding subsections (e)(2) and (g) of this section, in any case where a segment of the Interstate System was a designated part of such System on June 1, 1973, and is entirely within the boundaries of an incorporated city and such city enters into an agreement with the Secretary to pay all non-Federal costs of construction of such segment, such segment shall be constructed.

(i) ELIGIBLE PROJECTS FOR NHS.—Subject to project 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:

(1) Construction, reconstruction, resurfacing, restoration, and rehabilitation of segments of such system.

(2) Operational improvements for segments of such system.

(3) 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—

(A) if such highway or transit project is in the same corridor as, and in proximity to, a fully access controlled highway designated to the National Highway System;

(B) if the construction or improvements will improve the level of service on the fully access controlled highway and improve regional travel; and

(C) if the construction or improvements are more cost effective than an improvement to the fully access controlled highway that has benefits comparable to the benefits which will be achieved by the construction of, or improvements to, the highway not on the National Highway System.

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

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

(6) Highway research and planning in accordance with section 307.

(7) Highway-related technology transfer activities.

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

(9) Fringe and corridor parking facilities.

(10) Carpool and vanpool projects.

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

(12) Development and establishment of management systems under section 303.

(13) In accordance with all applicable Federal law and regulations, participation in wetlands mitigation efforts related to projects funded under this title, which may include participation in wetlands mitigation banks; contributions to statewide and regional efforts to conserve, restore, enhance and create wetlands; and development of statewide and regional 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.

(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.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (b)(3)(A), probably means the date of the enactment of Pub. L. 102–240, which amended this section and was approved Dec. 18, 1991.

Subsection (c) of section 1006 of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (b)(3)(A), is section 1006(c) of Pub. L. 102–240, which is set out below.

The date of the enactment of the National Highway System Designation Act of 1995, referred to in subsec. (b)(7)(A), is the date of enactment of Pub. L. 104–59, which was approved Nov. 28, 1995.

Section 1105 of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (b)(8), 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 date of enactment of the Federal-Aid Highway Act of 1978, referred to in subsec. (e)(2), (4)(M), means the date of enactment of Pub. L. 95–599, which was approved Nov. 6, 1978.

Section 149(d) of the Federal-Aid Highway Act of 1987, referred to in subsec. (e)(4)(H)(i), is section 149(d) of Pub. L. 100–17, which is not classified to the Code.

The date of the enactment of the Federal-Aid Highway Act of 1987, referred to in subsec. (e)(4)(H)(iii), (J)(iii), is the date of enactment of title I of Pub. L. 100–17, which was approved Apr. 2, 1987.

Section 4(g) of the Federal Transit Act, referred to in subsec. (e)(4)(I), was section 4(g) of Pub. L. 88–365, July 9, 1964, 78 Stat. 304, as amended, which was classified to section 1603(g) of former Title 49, Transportation, prior to repeal by Pub. L. 102–240, title III, § 3006(h)(1), Dec. 18, 1991, 105 Stat. 2090.

The date of enactment of the Federal-Aid Highway Act of 1976, referred to in subsec. (e)(4)(K)(ii), (9), means the date of enactment of title I of Pub. L. 94–280, which was approved May 5, 1976.

The National Environmental Policy Act of 1969, referred to in subsec. (e)(6), 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.

Section 23(a) of the Federal-Aid Highway Act of 1968, referred to in subsec. (g), is section 23(a) of Pub. L. 90–495, Aug. 23, 1968, 82 Stat. 827, which related to the District of Columbia and which is not classified to the Code.

The Water Resources Development Act of 1990, referred to in subsec. (i)(13), 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.

AMENDMENTS

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 Sec-

retary 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.

Change of Name

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

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.

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 result 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 por-

tions 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 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.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 101, 104, 115, 118, 119, 124, 139, 157, 307 of this title; title 49 sections 5309, 5323, 5327, 5331, 5338.

§ 104. Apportionment

(a) 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.

(b) On October 1, of each fiscal year except as provided in paragraph (5)(A) of this subsection, the Secretary, after making the deduction authorized by subsection (a) of this section and the set asides authorized by subsection (f) of this section and section 307 of this title, shall apportion the remainder 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 for that fiscal year, among the several States in the following manner:

(1) NATIONAL HIGHWAY SYSTEM.—For the National Highway System 1 percent to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands and the remaining 99 percent apportioned in the same ratio as funds are apportioned under paragraph (3).

(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program, in the ratio which the weighted nonattainment area population of each State bears to the total weighted nonattainment area population of all States. The weighted nonattainment area population shall be calculated by multiplying the population of each area within any State that 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 by a factor of—

(A) 1.0 if the area is classified as a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act;

(B) 1.1 if the area is classified as a moderate ozone nonattainment area under such subpart;

(C) 1.2 if the area is classified as a serious ozone nonattainment area under such subpart;

(D) 1.3 if the area is classified as a severe ozone nonattainment area under such subpart; or

(E) 1.4 if the area is classified as an extreme ozone nonattainment area under such subpart.

If the area was also classified under subpart 3 of part D of title I of such Act as a nonattainment area for carbon monoxide during any part of fiscal year 1994, for purposes of calculating the weighted nonattainment area population, the weighted nonattainment area population of the area, as determined under the preceding provisions of this paragraph, shall be further multiplied by a factor of 1.2. Notwithstanding any provision of this paragraph, in the case of States with a total 1990 census population of 15,000,000 or greater, the amount apportioned under this paragraph in a fiscal year to all of such States in the aggregate, shall be distributed among such States based on their relative populations; except that none of such States shall be distributed more than 42 percent of the aggregate amount so apportioned to all of such States. Notwithstanding any other provision of this paragraph, each State shall receive a minimum apportionment of ½ of 1 percent of the funds apportioned under this paragraph. The Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures.

(3) SURFACE TRANSPORTATION PROGRAM.—

(A) GENERAL RULE.—For the surface transportation program in a manner so that a State's current percentage share of apportionments is equal to the State's 1987–1991 percentage share of apportionments. For purposes of this paragraph—

(i) a State's current percentage share of apportionments is the State's percentage share of all funds apportioned for a fiscal year under paragraph (1) for the National Highway System, under section 144 for the bridge program, under paragraph (5)(B) for Interstate maintenance, and under this paragraph; and

(ii) a State's 1987–1991 percentage share of apportionments is the State's percentage share of all apportionments and allocations under this title for fiscal years 1987, 1988, 1989, 1990, and 1991 (except apportionments and allocations for Interstate construction under sections 104(b)(5)(A) and 118, Interstate highway substitute under section 103(e)(4), Federal lands highways under section 202, and emergency relief under section 125, all allocations under section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987, and the portion of allocations under section 157 (relating to minimum allocation) that would be attributable to apportionments made under Interstate construction and Interstate highway substitute programs under sections 104(b)(5)(A) and 103(e)(4), respectively, for such fiscal years if the minimum allocation percentage for such fiscal years had been 90 percent instead of 85 percent).

(B) CALCULATION RULES.—In calculating a State's percentage share under this paragraph for the purpose of making apportionments for fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, each State shall be treated as having received ½ of 1 percent of all funds apportioned for the Interstate construction program under section 104(b)(5)(A) in fiscal years 1987, 1988, 1989, 1990, and 1991. Notwithstanding any other provision of this paragraph, in any fiscal year no State shall receive a percentage of total apportionments and allocations that is less than 70 percent of its percentage of total apportionments and allocations for fiscal years 1987, 1988, 1989, 1990, and 1991, except for those States that receive an apportionment for Interstate construction under paragraph (5)(A) of more than $50,000,000 for fiscal year 1992.

(4) For the Interstate System, for the fiscal years ending June 30, 1957, June 30, 1958, and June 30, 1959:

One-half in the ratio which the population of each State bears to the total population of all the States as shown by the latest available Federal census, except that no States shall receive less than three-fourths of 1 per centum of the funds so apportioned; and one-half in the manner provided in paragraph (1) of this subsection. The sums authorized by section

108(b) of the Federal-Aid Highway Act of 1956 for the fiscal years ending June 30, 1958, and June 30, 1959, shall be apportioned on a date not less than six months and not more than twelve months in advance of the beginning of the fiscal year for which authorized.

(5)(A) Except as provided in subparagraph (B)—For the Interstate System for the fiscal years 1960 through 1996:

For the fiscal years 1960 through 1966, in the ratio which the estimated cost of completing the Interstate System in such State, as determined and approved in the manner provided in this paragraph, bears to the sum of the estimated cost of completing the Interstate System in all of the States. For the fiscal years 1967 through 1990, in the ratio which the Federal share of the estimated cost of completing the Interstate System in such State, as determined and approved in the manner provided in this paragraph, bears to the sum of the estimated cost of the Federal share of completing the Interstate System in all of the States. Each apportionment herein authorized for the fiscal years 1960 through 1996, inclusive, shall be made on October 1 of the year preceding the fiscal year for which authorized. As soon as the standards provided for in subsection (b) of section 109 of this title have been adopted, the Secretary, in cooperation with the State highway departments, shall make a detailed estimate of the cost of completing the Interstate System as then designated, after taking into account all previous apportionments made under this section, based upon such standards and in accordance with rules and regulations adopted by him and applied uniformly to all of the States. The Secretary shall transmit such estimates to the Senate and the House of Representatives within ten days subsequent to January 2, 1958. Upon approval of such estimate by the Congress by concurrent resolution, the Secretary shall use such approved estimate in making apportionments for the fiscal years ending June 30, 1960, June 30, 1961, and June 30, 1962. 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 ten days subsequent to January 2, 1961. Upon approval of such estimate by the Congress by concurrent resolution, the Secretary shall use such approved estimate in making apportionments for the fiscal years ending June 30, 1963, June 30, 1964, June 30, 1965, and June 30, 1966. 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 ten days subsequent to January 2, 1965. Upon the approval of such estimate by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1967; June 30, 1968; and June 30, 1969. 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 ten days subsequent to January 2, 1968. Upon the approval by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1970, and June 30, 1971. 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 on April 20, 1970. Upon the approval by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1972, and June 30, 1973. 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 ten days subsequent to January 2, 1972. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976. 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 ten days subsequent to January 2, 1975. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimate in making the apportionment for the fiscal year ending September 30, 1977. The Secretary shall make the apportionment for the fiscal year ending September 30, 1978 in accordance with section 103 of the Federal-Aid Highway Act of 1976. 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 ten days subsequent to January 2, 1977. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1979, and September 30, 1980. 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 ten days subsequent to January 2, 1979. Upon the approval

by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1981, and September 30, 1982. 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 ten days subsequent to January 2, 1981. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1983, and September 30, 1984. 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 ten days subsequent to January 2, 1983. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1985, and September 30, 1986. 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 ten days subsequent to January 2, 1985. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1987, and September 30, 1988. 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 ten days subsequent to January 2, 1987. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1989, and September 30, 1990. 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. Whenever the Secretary, pursuant to this subsection, requests and receives estimates of cost from the State highway departments, he shall furnish copies of such estimates at the same time to the Senate and the House of Representatives. The Secretary shall not include in any estimate submitted under this provision after December 31, 1978, any cost of a project to expand or clear zones immediately adjacent to the paved roadway of routes designed prior to February, 1967. Notwithstanding any other provisions of this subparagraph, the Secretary in making the revised estimate of the cost of completing the then designated Interstate System for the purpose of transmitting it to the Senate and House of Representatives within ten days subsequent to January 2, 1983, or thereafter, shall include only those costs eligible for funds authorized by subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, including the amendments made by section 4 of the Federal-Aid Highway Act of 1981. 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. 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. 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)[1] of this title.

(B) For resurfacing, restoring, rehabilitating, and reconstructing the Interstate System:

55 per centum in the ratio that lane miles on the Interstate routes designated under sections 103 and 139(c) of this title and routes on the Interstate System designated under section 139(a) of this title before March 9, 1984,[2] (other than those on toll roads not subject to a Secretarial agreement provided for in sec-

[1] See References in Text note below.

[2] So in original. The comma probably should not appear.

tion 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 and routes on the Interstate System designated under section 139(a) of this title before March 9, 1984,[2] (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 vehicle miles in all States. Notwithstanding the preceding sentence, 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.

(6) For the Federal-aid urban systems:

In the ratio which the population in urban areas, or parts thereof, in each State bears to the total population in such urban areas, or parts thereof, in all the States as shown by the latest available Federal census. No State shall receive less than one-half of 1 per centum of each year's apportionment.

(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.—The Secretary shall expend, from administrative funds deducted under subsection (a), $300,000 for each 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.

(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.

(3) 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.

(e) On October 1, of each fiscal year the Secretary shall certify to each of the State highway departments the sums which he has apportioned hereunder (other than 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. 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. 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.

(f)(1) 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, 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.

(2) 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 per centum of the amount apportioned.

(3) 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. These funds shall be matched in accordance with section

120(j)[3] of this title unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching.

(4) 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.

(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, 144, and 152 of this title 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 highway 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 highway department, and is approved by the Secretary as being in the public interest, if he has received satisfactory assurances from such State highway 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) NATIONAL RECREATIONAL TRAILS FUNDING.—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.

(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.

(j) 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.

(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.)

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (b)(2), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended. Subpart 2 of part D of title I of the Act is classified to subpart 2 (§ 7511 et seq.) of part D of subchapter I of chapter 85 of Title 42, The Public Health and Welfare. Subpart 3 of part D of title I of the Act is classified to subpart 3 (§ 7512 et seq.) of part D of subchapter I of chapter 85 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.

Section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987, referred to in

[3] See References in Text note below.

subsec. (b)(3)(A)(ii), is section 149 of Pub. L. 100–17, title I, Apr. 2, 1987, 101 Stat. 181, which is not classified to the Code.

Section 108(b) of the Federal-Aid Highway Act of 1956, referred to in subsec. (b)(4), is section 108(b) of act June 29, 1956, as amended, including the amendments made by section 4 of the Federal-Aid Highway Act of 1981, Pub. L. 97–134, which is set out as a note under section 101 of this title.

Section 103 of the Federal-Aid Highway Act of 1976, referred to in subsec. (b)(5)(A), is section 103 of Pub. L. 94–280, which was formerly set out as a note below.

The date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (b)(5)(A), is the date of enactment of Pub. L. 102–240, which was approved Dec. 18, 1991.

Section 118(b) of this title, referred to in subsec. (b)(5)(A), was struck out and a new subsec. (b) was added by Pub. L. 102–240, title I, §1020(a), Dec. 18, 1991, 105 Stat. 1948. Provisions formerly contained in subsec. (b)(2) of section 118 now appear in subsec. (b)(1).

Section 105 of the Federal-Aid Highway Act of 1978, referred to in subsec. (b)(5)(B), is section 105 of Pub. L. 95–599, title I, Nov. 6, 1978, 92 Stat. 2692, which is not classified to the Code.

Section 120(j) of this title, referred to in subsec. (f)(3), was repealed by Pub. L. 102–240, title I, §1021(b)(1), Dec. 18, 1991, 105 Stat. 1951.

Section 404 of the Woodrow Wilson Memorial Bridge Authority Act of 1995, referred to in subsec. (i)(1), is section 404 of Pub. L. 104–59, title IV, Nov. 28, 1995, 109 Stat. 628, which is not classified to the Code.

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.

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

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 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.''

ADVANCES

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 provi-

sions 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

Section 1101–1102 of Pub. L. 102–240 directed Secretary of Transportation to conduct a study of effects of climatic conditions on costs of highway construction and maintenance, such study to take into account such climatic conditions as freezing, thawing, and precipitation and impact of climatic conditions on increased highway design costs and decreased highway service life in various regions of United States, and directed Secretary, not later than Sept. 30, 1993, to transmit to Congress a report on the results of the study, together with such recommendations as Secretary considered appropriate with the report to include a description of implications of differing costs on allocation of highway funds to the States.

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

Section 1002(a)–(g) of Pub. L. 102–240 provided that:

''(a) GENERAL LIMITATION.—Notwithstanding any other provision of law (other than subsection (f) of this section), the total of all obligations for Federal-aid highways and highway safety construction programs shall not exceed—

''(1) $16,800,000,000 for fiscal year 1992;

''(2) $18,303,000,000 for fiscal year 1993;

''(3) $18,362,000,000 for fiscal year 1994;

''(4) $18,332,000,000 for fiscal year 1995;

''(5) $18,357,000,000 for fiscal year 1996; and

''(6) $18,338,000,000 for fiscal year 1997.

''(b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations—

''(1) under section 125 of title 23, United States Code;

''(2) under section 157 of such title;

''(3) under section 147 of the Surface Transportation Assistance Act of 1978 [Pub. L. 95–599, set out as a note under section 144 of this title];

''(4) under section 9 of the Federal-Aid Highway Act of 1981 [Pub. L. 97–134, 95 Stat. 1701];

''(5) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982 [Pub. L. 97–424, 96 Stat. 2119, 2123];

''(6) under section 404 of the Surface Transportation Assistance Act of 1982 [now 49 U.S.C. 31104]; and

''(7) under sections 1103 through 1108 of this Act [amending section 105 of this title].

Such limitations shall also not apply to obligations of funds made available by 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].

''(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—

''(1) GENERAL RULE.—For each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, the Secretary shall distribute the limitation imposed by subsection (a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year.

''(2) SPECIAL RULE FOR MASSACHUSETTS.—For purposes of this section, funds apportioned to the State

of Massachusetts pursuant to the next to the last sentence of section 104(b)(5)(A) of title 23, United States Code, shall be treated as if such funds were allocated to such State under such title. If, before October 1 of each of fiscal years 1992, 1993, 1994, and 1995, the State of Massachusetts indicates it will not obligate a portion of the amount which would be distributed to such State under the preceding sentence, the Secretary shall distribute such portion to the other States under paragraph (1).

''(d) LIMITATION ON OBLIGATION AUTHORITY.—During the period October 1 through December 31 of each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, no State shall obligate more than 35 percent of the amount distributed to such State under subsection (c) for such fiscal year, and the total of all State obligations during such period shall not exceed 25 percent of the total amount distributed to all States under such subsection for such fiscal year.

''(e) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsections (c) and (d), the Secretary shall—

''(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

''(2) after August 1 of each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, revise a distribution of the funds made available under subsection (c) for such fiscal year if a State will not obligate the amount distributed during such fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during such 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; and

''(3) not distribute amounts authorized for administrative expenses, Federal lands highways programs, and the national high speed ground transportation programs and amounts made available under section 149(d) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 [Pub. L. 100–17, 101 Stat. 201].

''(f) ADDITIONAL OBLIGATION AUTHORITY.—

''(1) IN GENERAL.—Subject to paragraph (2), a State which after August 1 and on or before September 30 of fiscal year 1993, 1994, 1995, 1996, or 1997 obligates the amount distributed to such State in such fiscal year under subsections (c) and (e) may obligate for Federal-aid highways and highway safety construction on or before September 30 of such fiscal year an additional amount not to exceed 5 percent of the aggregate amount of funds apportioned or allocated to such State—

''(A) under sections 104 and 144 of title 23, United States Code, and

''(B) for highway assistance projects under section 103(e)(4) of such title,

which are not obligated on the date such State completes obligation of the amount so distributed.

''(2) LIMITATION ON ADDITIONAL OBLIGATION AUTHORITY.—During the period August 2 through September 30 of each of fiscal years 1993, 1994, 1995, 1996, and 1997, the aggregate amount which may be obligated by all States pursuant to paragraph (1) shall not exceed 2.5 percent of the aggregate amount of funds apportioned or allocated to all States—

''(A) under sections 104 and 144 of title 23, United States Code, and

''(B) for highway assistance projects under section 103(e)(4) of such title,

which would not be obligated in such fiscal year if the total amount of obligational authority provided by subsection (a) for such fiscal year were utilized.

''(3) LIMITATION ON APPLICABILITY.—Paragraph (1) shall not apply to any State which on or after August 1 of fiscal year 1993, 1994, 1995, 1996, or 1997, as the case may be, has the amount distributed to such State under subsection (c) for such fiscal year reduced under subsection (e)(2).

''(g) OBLIGATION CEILING FOR HIGHWAY SAFETY PROGRAMS.—Notwithstanding any other provision of law, the total of all obligations for highway safety programs carried out by the Federal Highway Administration under section 402 of title 23, United States Code, shall not exceed $10,000,000 for fiscal year 1992 and $20,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997.''

Pub. L. 105–66, title I, Oct. 27, 1997, 111 Stat. 1431, provided in part that: ''None of the funds in this Act [see Tables for classification] shall be available for the implementation or execution of programs the obligations for which are in excess of $21,500,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 1998.''

Pub. L. 105–66, title III, § 310, Oct. 27, 1997, 111 Stat. 1442, provided that:

''(a) For fiscal year 1998, the Secretary of Transportation shall distribute the obligation limitation for Federal-aid highways by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways that are apportioned or allocated to each State for such fiscal year bear to the total of the sums authorized to be appropriated for Federal-aid highways that are apportioned or allocated to all the States for such fiscal year.

''(b) During the period October 1 through December 31, 1997, no State shall obligate more than 25 percent of the amount distributed to such State under subsection (a), and the total of all State obligations during such period shall not exceed 12 percent of the total amount distributed to all States under such subsection.

''(c) Notwithstanding subsections (a) and (b), the Secretary shall—

''(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways that have been apportioned to a State;

''(2) after August 1, 1998, revise a distribution of the funds made available under subsection (a) if a State will not obligate the amount distributed 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 103(e)(4), 104, 144, and 160 of title 23, United States Code, and under sections 1013(c) [set out as a note under section 157 of this title] and 1015 [set out above] of Public Law 102–240; and

''(3) not distribute amounts authorized for administrative expenses and funded from the administrative takedown authorized by section 104(a) of title 23, United States Code, the Federal lands highway program, the intelligent transportation systems program, the Truman-Hobbs bridges funded under the discretionary bridge program, and amounts made available under sections 1040, 1047 [set out as notes under section 101 of this title], 1064 [set out as a note under section 129 of this title], 6001, 6005 [amending section 307 of this title], 6006 [enacting section 111 of Title 49, Transportation, and amending section 5316 of Title 5, Government Organization and Employees], 6023, and 6024 [amending section 1607c of former Title 49] of Public Law 102–240, and 49 U.S.C. 5316, 5317, and 5338: *Provided*, That amounts made available under section 6005 of Public Law 102–240 shall be subject to the obligation limitation for Federal-aid highways and highway safety construction programs under the heading 'Federal-Aid Highways' in this Act [see Pub. L. 105–66, title I, Oct. 27, 1997, 111 Stat. 1431, set out above].

''(d) During the period October 1 through December 31, 1997, the aggregate amount of obligations under section 157 of title 23, United States Code, for projects covered under section 147 of the Surface Transportation Assistance Act of 1978 [Pub. L. 95–599, set out as a note

under section 144 of this title], section 9 of the Federal-Aid Highway Act of 1981 [Pub. L. 97–134, 95 Stat. 1701], sections 131(b), 131(j) [96 Stat. 2119, 2123], and 404 [now 49 U.S.C. 31104] of Public Law 97–424, sections 1061 [105 Stat. 2004], 1103–1108 [amending section 105 of this title], 4008 [set out as a note under former section 11506 of Title 49], 6023(b)(8), and 6023(b)(10) [probably means section 1607c(b)(8) and (10) of former Title 49, enacted by section 6023(b) of Pub. L. 103–240, see sections 5317 and 5338 of Title 49] of Public Law 102–240, and for projects authorized by Public Law 99–500 and Public Law 100–17 [see Tables for classification], shall not exceed $277,431,840.

''(e) Notwithstanding any other provision of law, none of the funds in this Act [see Tables for classification] shall be available for the distribution of bonus limitation under the Federal-aid highways program.''

Similar provisions for prior fiscal years were contained in the following acts:

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. 102–143, 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 101, 103, 115, 118, 119, 120, 126, 127, 130, 131, 133, 134, 136, 137, 139, 140, 141, 142, 146, 149, 150, 151, 152, 153, 157, 158, 159, 160, 161, 204, 217, 303, 307, 309, 311, 321, 326 of this title; title 49 sections 5305, 5504, 31314.

§ 105. Programs

(a) As soon as practicable after the apportionments for the Federal-aid systems have been made for any fiscal year, the State highway department of any State desiring to avail itself of the benefits of this chapter shall submit to the Secretary for his approval a program or programs of proposed projects for the utilization of the funds apportioned. The Secretary shall act upon programs submitted to him as soon as practicable after the same have been submitted. The Secretary may approve a program in whole or in part, but he shall not approve any project in a proposed program which is not located upon an approved Federal-aid system.

(b) In approving programs for projects on the Federal-aid secondary system, the Secretary shall require that such projects be selected by the State highway department and the appropriate local officials in cooperation with each other, except in States where all public roads and highways are under the control and supervision of the State highway department such selection shall be made after consultation with appropriate local officials.

(c) In approving programs for projects on the Federal-aid primary system, the Secretary shall give preference to such projects as will expedite the completion of an adequate and connected system of highways interstate in character.

(d) In approving programs for projects on the Federal-aid urban system, the Secretary shall require that such 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.

(e) In approving programs for projects under this chapter, the Secretary may give priority of approval to, and expedite the construction of, projects that are recommended as important to the national defense by the Secretary of Defense, or other official authorized by the President to make such recommendation.

(f) In approving programs for projects on the Federal-aid systems pursuant to chapter 1 of this title, the Secretary shall give priority to those projects which incorporate improved standards and features with safety benefits.

(g) In preparing programs to submit in accordance with subsection (a) of this section, the State highway departments shall give consideration to projects providing direct and convenient public access to public airports, public ports for water transportation, new town communities, and new town-intown communities, and in approving such programs the Secretary shall give consideration to such projects.

(h) In preparing programs to submit in accordance with subsection (a) of this section, the State highway departments may give priority to projects for the reconstruction, resurfacing, restoration, or rehabilitation of highways which are incurring a substantial use as a result of transportation activities to meet national energy requirements and which will continue to incur such use, and in approving such programs the Secretary may give priority to such projects.

(k)[1] PRIORITY FOR HIGH PRIORITY SEGMENTS OF CORRIDORS OF NATIONAL SIGNIFICANCE.—In selecting projects for inclusion in a program of projects under this section, the State may give priority to high priority segments of corridors identified under section 1105(f) of the Intermodal Surface Transportation Efficiency Act of 1991. In

[1] So in original. Probably should be ''(i)''.

approving programs of projects under this section, the Secretary may give priority of approval to, and expedite construction of, projects to complete construction of such segments.

(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.)

REFERENCES IN TEXT

Section 1105(f) of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (k), is section 1105(f) of Pub. L. 102–240, which is not classified to the Code.

AMENDMENTS

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 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].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 117, 131, 140, 143, 150 of this title.

§ 106. Plans, specifications, and estimates

(a) Except as provided in this section and section 117 of this title, the State highway department shall submit to the Secretary for his approval, as soon as practicable after program approval, such surveys, plans, specifications, and estimates for each proposed project included in an approved program as the Secretary may require. The Secretary shall act upon such surveys, plans, specifications, and estimates as soon as practicable after the same have been submitted, and his approval of any such project shall be deemed a contractual obligation of the Federal Government for the payment of its proportional contribution thereto. In taking such action, the Secretary shall be guided by the provisions of section 109 of this title.

(b) SPECIAL RULES.—

(1) 3R PROJECTS ON NHS.—Notwithstanding any other provision of this title, a State highway department may approve, on a project by project basis, plans, specifications, and estimates for projects to resurface, restore, and rehabilitate highways on the National Highway System if the State certifies that all work will meet or exceed the standards approved by the Secretary under section 109(c).

(2) NON-NHS PROJECTS AND LOW-COST NHS PROJECTS.—Any State may request that the Secretary no longer review and approve plans, specifications, and estimates for any project (including any highway project on the National Highway System with an estimated construction cost of less than $1,000,000 but excluding any other highway project on the National Highway System). After receiving any such notification, the Secretary shall undertake project review only as requested by the State.

(3) SAFETY CONSIDERATIONS.—Safety considerations for projects subject to this subsection may be met by phase construction consistent with an operative safety management system established in accordance with section 303.

(c) LIMITATION ON ESTIMATES FOR CONSTRUCTION ENGINEERING.—Items included in all such estimates for construction engineering for a State for a fiscal year shall not exceed, in the aggregate, 15 percent of the total estimated costs of all projects financed within the boundaries of the State with Federal-aid highway funds in such fiscal year, after excluding from such total estimate costs, the estimated costs of rights-of-way, preliminary engineering, and construction engineering.

(d) In such cases as the Secretary determines advisable, plans, specifications, and estimates for proposed projects on any Federal-aid system shall be accompanied by a value engineering or other cost reduction analysis.

(e) 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.

(f) VALUE ENGINEERING FOR NHS.—

(1) REQUIREMENT.—The Secretary shall establish a program to require States to carry out a value engineering analysis for all projects on the National Highway System with an estimated total cost of $25,000,000 or more.

(2) VALUE ENGINEERING DEFINED.—In this subsection, the term ''value engineering analysis'' means a systematic process of review and analysis of a project during its design phase by a multidisciplined team of persons not involved in the project in order to provide suggestions for reducing the total cost of the project and providing a project of equal or better quality. Such suggestions may include combining or eliminating otherwise inefficient or expensive parts of the original proposed design for the project and total redesign of the proposed project using different technologies, materials, or methods so as to accomplish the original purpose of the project.

(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.)

AMENDMENTS

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 109, 112, 117, 121, 143 of this title; title 40 App. section 201.

§ 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 the Act of February 26, 1931, 46 Stat. 1421), 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 highway 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 highway 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 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.)

REFERENCES IN TEXT

Act of February 26, 1931, 46 Stat. 1421, referred to in subsec. (a), is act Feb. 26, 1931, ch. 307, 46 Stat. 1421, as amended, known as the Declaration of Taking Act, which enacted sections 258a to 258e of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Tables.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 43 section 1770.

§ 108. Advance acquisition of rights-of-way

(a) 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.

(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)(1) There is hereby established in the Treasury of the United States a revolving fund to be known as the right-of-way revolving fund which shall be administered by the Secretary in carrying out the provisions of this subsection. Sums authorized to be appropriated to the right-of-way revolving fund shall be available for expenditure without regard to the fiscal year for which such sums are authorized.

(2) For the purpose of acquiring rights-of-way for future construction of highways and passenger transit facilities on any Federal-aid system and for making payments for the moving or relocation of persons, businesses, farms, and other existing uses of real property caused by the acquisition of such rights-of-way, in addition to the authority contained in subsection (a) of this section, the Secretary, upon request of a

[1] See References in Text note below.

State highway department, is authorized to advance funds, without interest, to the State from amounts available in the right-of-way revolving fund, in accordance with rules and regulations prescribed by the Secretary. Funds so advanced may be used to pay the entire costs of projects for the acquisition of rights-of-way, including the net cost to the State of property management, if any, and related moving and relocation payments.

(3) Actual construction of a project on rights-of-way, with respect to which funds are advanced under this subsection, shall be commenced within a period of not less than two years nor more than 20 years following the end of the fiscal year in which the Secretary approves such advance of funds, unless the Secretary, in his discretion, shall provide for an earlier or later termination date. Immediately upon the termination of the period of time within which actual construction must be commenced, in the case of any project where such construction is not commenced before such termination, or upon approval by the Secretary of the plans, specifications, and estimates for such project for the actual construction of a project on rights-of-way with respect to which funds are advanced under this subsection, whichever shall occur first, the right-of-way revolving fund shall be credited with an amount equal to the Federal share of the funds advanced, as provided in section 120 of this title, out of any Federal-aid highway funds apportioned to the State in which such project is located and available for obligation for projects of the type funded and 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 right-of-way revolving fund.

(d) 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.)

REFERENCES IN TEXT

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in subsec. (d)(2)(A), is act Jan. 2, 1971, Pub. L. 91–646, 84 Stat. 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. (d)(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. 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. (d)(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. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

[1] See References in Text note below.

This Act, referred to in subsec. (d)(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. (d)(2)(F), probably means section 7 of the Endangered Species Act of 1973, which is classified to section 1536 of Title 16, Conservation.

AMENDMENTS

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.

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 highway 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 highway departments, may develop criteria to implement paragraph (1). In developing criteria under this paragraph, the Secretary shall consider 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.

(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 highway 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) 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.

(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) The Secretary shall issue within 30 days after the day of enactment of the Federal-Aid Highway Act of 1970 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 values 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) 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.

(n) 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.

(*o*) 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.

(p) 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.

(q) 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).

(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.)

REFERENCES IN TEXT

The day of enactment of the Federal-Aid Highway Act of 1970, referred to in subsec. (g), is Dec. 31, 1970.

AMENDMENTS

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.

METRIC REQUIREMENTS

Section 205(c) of Pub. L. 104–59 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.—Before September 30, 2000, 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 recommendations 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 104, 106, 115, 117, 119, 142 of this title.

§ 110. Project agreements

(a) As soon as practicable after the plans, specifications, and estimates for a specific project have been approved, the Secretary shall enter into a formal project agreement with the State highway department concerning the construction and maintenance of such project. Such project agreement shall make provision for State funds required for the State's pro rata share of the cost of construction of such project and for the maintenance thereof after completion of construction.

(b) The Secretary may rely upon representations made by the State highway department with respect to the arrangements or agreements made by the State highway department and appropriate local officials where a part of the project is to be constructed at the expense of, or in cooperation with, local subdivisions of the State.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 894.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 101 of this title.

§ 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 highway 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 highway 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.)

AMENDMENTS

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''.

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, commonly 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 highway 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 paragraph (2), 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 highway 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.—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 title IX of the Federal Property and Administrative Services Act of 1949 or equivalent State qualifications-based requirements.

(B) APPLICABILITY.—

(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, except to the extent that such State adopts by statute a formal procedure for the procurement of such services.

(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, 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).

(C) 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.

(D) 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 government agency, if such rates are not currently under dispute.

(E) 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.

(F) PRENOTIFICATION; CONFIDENTIALITY OF DATA.—A recipient of funds requesting or using the cost and rate data described in subparagraph (E) 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.

(G) 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.

(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 highway 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.—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.

(f) 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.

(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.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (b)(2)(A), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Title IX of the Federal Property and Administrative Services Act is classified generally to subchapter VI (§541 et seq.) of chapter 10 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

The date of the enactment of this paragraph, referred to in subsec. (b)(2)(B), is the date of enactment of Pub. L. 100–17, which was approved Apr. 2, 1987.

The date of the enactment of this subparagraph, referred to in subsec. (b)(2)(G), is the date of enactment of Pub. L. 104–59, which was approved Nov. 28, 1995.

AMENDMENTS

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 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.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 210 of this title.

§ 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 the Act of March 3, 1931, known as the Davis-Bacon Act (40 U.S.C. 276a).

(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.)

REFERENCES IN TEXT

Act of March 3, 1931, known as the Davis-Bacon Act (40 U.S.C. 276a), referred to in subsec. (a), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

AMENDMENTS

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 highways or portions of highways located on a Federal-aid system shall be undertaken by the respective State highway departments or under their direct supervision. Except as provided in section 117 of this title, such construction shall be subject to the inspection and approval of the Secretary. The construction work and labor in each State shall be performed under the direct supervision of the State highway 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 highway department shall not erect on any project where actual construction is in progress and visible to highway users any infor-

mational 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.

(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.)

AMENDMENTS

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.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 121 of this title.

§115. Advance construction

(a) SUBSTITUTE, CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT, SURFACE TRANSPORTATION, BRIDGE, PLANNING, AND RESEARCH PROJECTS.—

(1) GENERAL RULE.—Subject to paragraph (2), when a State—

(A)(i) has obligated all funds apportioned or allocated to it under section 103(e)(4)(H), 104(b)(2), 104(b)(3), 104(f), 144, or 307 of this title, or

(ii) has used or demonstrates that it will use all obligation authority allocated to it for Federal-aid highways and highway safety construction, and

(B) proceeds with a project funded under such an apportionment or allocation 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 the State to implementation of projects with the aid of Federal funds previously apportioned or allocated to it or limit a State to implementation of a project with obligation authority previously allocated to it for Federal-aid highways and highway safety construction,

the Secretary, upon approval of an application of the State, is authorized to pay to the State

the Federal share of the cost of the project when additional funds are apportioned or allocated to the State under such section or when additional obligation authority is allocated to it.

(2) PLANS, SPECIFICATIONS, AND APPLICABLE STANDARDS.—The Secretary may only make payments to a State with respect to a project if—

(A) prior to commencement of the project the Secretary approves the project in the same manner as the Secretary approves other projects, and

(B) the project conforms to the applicable standards under this title.

(b) INTERSTATE AND NATIONAL HIGHWAY SYSTEM PROJECTS.—

(1) IN GENERAL.—When a State proceeds to construct any project on the National Highway System or the Interstate System 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 the State to the construction of projects with the aid of Federal funds previously apportioned to it, the Secretary, upon approval of application of the State, is authorized to pay to the State the Federal share of the cost of construction of the project when additional funds are apportioned to the State under section 104(b)(1) or 104(b)(5), as the case may be, 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 under section 109 of this title.

(2) BOND INTEREST FOR PROJECTS UNDER CONSTRUCTION ON JANUARY 1, 1983.—For any project under construction on January 1, 1983, on the Interstate System and converted to a regularly funded project after January 1, 1983, for which the proceeds of bonds issued by the State, county, city, or other political subdivision of the State were used, any interest earned and payable on such bonds by the date of conversion is an eligible cost of construction, to the extent that the proceeds of such bonds have actually been expended in the construction of such projects.

(3) BOND INTEREST.—Subject to the provisions of this paragraph, the cost of construction of a project, the Federal share of which the Secretary is authorized to pay under this subsection, shall include the amount of any interest earned and payable on bonds issued by the State to the extent that the proceeds of such bonds have actually been expended in the construction of such project. In no event shall the amount of interest considered as a cost of construction of a project under the preceding sentence be greater than the excess of (A) the amount which would be the estimated cost of construction of the project if the project were to be constructed at the time the project is converted to a regularly funded project, over (B) the actual cost of construction of such project (not including such interest). The Secretary shall consider changes in construction cost indices in determining the amount under clause (A) of this paragraph.

(c) COMPLETION OF PROJECTS.—In determining the apportionment for any fiscal year under the provisions of section 103(e)(4), 104, 134, 144,,[1] 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.

(d) 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.)

AMENDMENTS

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 section 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".

[1] So in original.

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 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 highway department to maintain, or cause to be main-

tained, 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 highway department is without legal authority to maintain a project constructed on the Federal-aid secondary system, or within a municipality, such highway 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 highway 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.)

AMENDMENTS

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. Certification acceptance

(a) The Secretary may discharge any of his responsibilities under this title relative to projects under this chapter, except projects on the Interstate System, upon the request of any State, by accepting a certification by the State highway department, or that department, commission, board, or official of any State charged by its laws with the responsibility for highway or other transportation construction, of its performance of such responsibilities, if he finds such projects will be carried out in accordance with State laws, regulations, directives, and standards which will accomplish the policies and objectives contained in or issued pursuant to this title.

(b) The Secretary may accept projects based on inspections of a type and frequency necessary to ensure the projects are completed in accordance with appropriate standards.

(c) The procedure authorized by this section shall be an alternative to that otherwise pre-

scribed in this title. The Secretary shall promulgate such guidelines and regulations as may be necessary to carry out this section.

(d) Acceptance by the Secretary of a State's certification under this section may be rescinded by the Secretary at any time if, in his opinion, it is necessary to do.

(e) Nothing in this section, section 106(b), section 133, and section 149 shall affect or discharge any responsibility or obligation of the Secretary under any Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.), section 303 of title 49, title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d),[1] et seq.), title VIII of the Act of April 11, 1968 (Public Law 90–284, 42 U.S.C. 3601 et seq.), and the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (42 U.S.C. 4601, et seq.), other than this title.

(f)(1) In the case of the Federal-aid secondary system, in lieu of discharging his responsibilities in accordance with subsections (a) through (d) of this section, the Secretary may, upon the request of any State highway department, discharge his responsibility relative to the plans, specifications, estimates, surveys, contract awards, design, inspection, and construction of all projects on the Federal-aid secondary system by his receiving and approving a certified statement by the State highway department setting forth that the plans, design, and construction for each such project are in accord with those standards and procedures which (A) were adopted by such State highway department, (B) were applicable to projects in this category, and (C) were approved by him.

(2) The Secretary shall not approve such standards and procedures unless they are in accordance with the provisions of subsection (b) of section 105, subsection (b) of section 106, and subsection (c) of section 109, of this title.

(3) Paragraphs (1) and (2) of this subsection shall not be construed to relieve the Secretary of his obligation to make a final inspection of each project after construction and to require an adequate showing of the estimated cost of construction and the actual cost of construction.

(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.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (e), 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.

The Civil Rights Act of 1964, referred to in subsec. (e), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (2000d et seq.) of chapter 21 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

[1] So in original. Probably should be "42 U.S.C. 2000d,".

Title VIII of the Act of April 11, 1968, (Pub. L. 90–284), referred to in subsec. (e), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, as amended, known as the Fair Housing Act, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of Title 42 and Tables.

The Uniform Relocation Assistance and Land Acquisition Policies Act of 1970, referred to in subsec. (e), probably means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is act Jan. 2, 1971, Pub. L. 91–646, 84 Stat. 1894, as amended, and which is classified principally to chapter 61 (§4601 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of Title 42 and Tables.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–240, §1016(f)(2)(A), (B), substituted "under this chapter, except projects on" for "on Federal-aid systems, except" and inserted "or other transportation" before "construction".

Subsec. (b). Pub. L. 102–240, §1016(f)(2)(C), added subsec. (b) and struck out former subsec. (b) which read as follows: "The Secretary shall make a final inspection of each such project upon its completion and shall require an adequate report of the estimated, and actual, cost of construction as well as such other information as he determines necessary."

Subsec. (e). Pub. L. 102–240, §1016(f)(2)(D), inserted ", section 106(b), section 133, and section 149" after "this section".

1983—Subsec. (e). Pub. L. 97–449 substituted "section 303 of title 49" for "section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f))".

1976—Subsec. (a). Pub. L. 94–280, §116(a), substituted "which will accomplish the policies and objectives contained in or issued pursuant to this title" for "establishing requirements at least equivalent to those contained in, or issued pursuant to, this title,".

Subsec. (f). Pub. L. 94–280, §116(b), added subsec. (f).

1973—Pub. L. 93–87 substituted "Certification acceptance" for "Secondary road responsibility" in section catchline.

Subsec. (a). Pub. L. 93–87 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "The Secretary may, upon the request of any State highway department, discharge his responsibility relative to the plans, specifications, estimates, surveys, contract awards, design, inspection, and construction of all projects on the Federal-aid secondary system by his receiving and approving a certified statement by the State highway department setting forth that the plans, design, and construction for each such project are in accord with those standards and procedures which (1) were adopted by such State highway department, (2) were applicable to projects in this category, and (3) were approved by him."

Subsec. (b). Pub. L. 93–87 incorporated provisions of former subsec. (c), required the Secretary to include in the report such other information as he determines necessary, and deleted former subsec. (b) provisions which prohibited the Secretary from approving any standards and procedures unless they were in accordance with sections 105(b), 106(b), and 109(c) of this title.

Subsec. (c). Pub. L. 93–87 added subsec. (c). Former subsec. (c), which provided that subsecs. (a) and (b) should not be construed to relieve the Secretary of his obligation to make a final inspection of each project after construction and to require an adequate showing of the estimated cost of construction and the actual cost of construction, was incorporated in subsec. (b) of this section.

Subsecs. (d), (e). Pub. L. 93–87 added subsecs. (d) and (e).

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 106, 112, 114 of this title.

§ 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; DISCRETIONARY PROJECTS.—

(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) SET ASIDE FOR CONSTRUCTION PROJECTS.—Before any apportionment is made under section 104(b)(5)(A) of this title for a fiscal year beginning after September 30, 1992, the Secretary shall set aside $100,000,000. Subject to section 149(d) of the Federal-Aid Highway Act of 1987, such amount shall be available only for obligation by the Secretary in accordance with subsection (b)(2) of this section.

(2) SET ASIDE FOR 4R PROJECTS.—

(A) IN GENERAL.—Before any apportionment is made under section 104(b)(1) of this title, the Secretary shall set aside $54,000,000 for fiscal year 1992, $64,000,000 for each[1] fiscal years 1993, 1994, 1995, and 1996, and $65,000,000 for fiscal year 1997 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 and any toll road on the Interstate System not subject to an agreement under section 119(e) of this title, as in effect on the day before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991). Of the amounts set aside under the preceding sentence, the Secretary shall obligate $16,000,000 for fiscal year 1992 and $17,000,000 for each of fiscal years 1993 and 1994 for improvements on the Kennedy Expressway in Chicago, Illinois. The remainder of such funds shall be made available by the Secretary to any State applying for such funds, if the Secretary determines that—

(i) the State has obligated or demonstrates that it will obligate in the fiscal year all of its apportionments under section 104(b)(1) other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a project for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System which has been submitted by the State to the Secretary for approval; and

(ii) the applicant is willing and able to (I) obligate the funds within 1 year of the date the funds are made available, (II) apply them to a ready-to-commence project, and (III) in the case of construction work, begin work within 90 days of obligation.

(B) PRIORITY CONSIDERATION FOR CERTAIN PROJECTS.—In selecting projects to fund under subparagraph (A), 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.

(C) PERIOD OF AVAILABILITY OF DISCRETIONARY FUNDS.—Sums made available pursuant to this paragraph shall remain available until expended.

(d) 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.

(e) 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.

(f) 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

[1] So in original. Probably should be ''each of''.

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.)

REFERENCES IN TEXT

Section 149(d) of the Federal-Aid Highway Act of 1987, referred to in subsec. (c)(1), is section 149(d) of Pub. L. 100–17, which is not classified to the Code.

The date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (c)(2)(A), is the date of enactment of Pub. L. 102–240, which was approved Dec. 18, 1991.

The date of the enactment of this subsection, referred to in subsec. (d), is the date of the enactment of Pub. L. 97–424, which was approved Jan. 6, 1983.

AMENDMENTS

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 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.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 104, 114, 127, 143, 157, 158, 159 of this title; title 40 section 818; title 40 App. section 201; title 49 section 31314.

§ 119. Interstate maintenance program

(a) 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.

(b) 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[1] 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[1] 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[1] in accordance with such program then the next apportionment of funds to such State for the Interstate system[1] 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[1] 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.

(c) ELIGIBLE ACTIVITIES.—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.

(d) 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)(5)(B) any amount of the funds apportioned to such State for any fiscal year under section 104(b)(5)(A) 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).

(e) PREVENTIVE MAINTENANCE.—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.

(f) 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)(5)(B) 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)(5)(B) 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)(5)(B) for such fiscal year.

(g) 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.)

[1] So in original. Probably should be capitalized.

REFERENCES IN TEXT

The date of enactment of this sentence, referred to in subsec. (a), means the date of enactment of Pub. L. 98–229, which was approved Mar. 9, 1984.

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

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 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.

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.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 118, 129 of this title.

§ 120. Federal share payable

(a) INTERSTATE SYSTEM PROJECTS.—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.

(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.

(c) INCREASED FEDERAL SHARE FOR CERTAIN SAFETY PROJECTS.—The Federal share payable on account of any project for traffic control signalization, 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 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.

(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 system, including the Interstate System, shall not exceed the Federal share payable on a project on such system 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 highway 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.

(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.)

AMENDMENTS

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, §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, §1022(a), which directed the substitution of ''180 days'' for ''90 days'' in subsec. (d) as redesignated, was executed to subsec. (e) as redesignated to reflect the probable intent of Congress, 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'', was executed to subsec. (e) as redesignated to reflect the probable intent of Congress, because the phrase ''and (c)'' does not appear in subsec. (d) as redesignated.

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 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 sec-

tion 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 104, 107, 108, 121, 122, 125, 130, 142, 147, 148, 217 of this title; title 42 section 3338.

§ 121. Payment to States for construction

(a) 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.

(b) 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.

(c) 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.

(d) In making payments pursuant to this section, the Secretary shall be bound by the limita-

tions with respect to the permissible amounts of such payments continued in sections 106(c), 120, and 130 of this title.

(e) Such payments shall be made to such official or officials or depository as may be designated by the State highway 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.)

AMENDMENTS

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 122 of this title.

§ 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.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 101 of this title.

§ 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,''.

§ 124. Advances to States

(a) 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 highway 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 highway 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.

(b) Notwithstanding subsection (a) of this section, if the Secretary of Transportation determines that any toll bridge, toll tunnel, or approach thereto, which meets the requirements of section 129 of this title is necessary to complete an essential gap in the Interstate System then, upon request of the State highway department, the Secretary shall, at any time during construction of such bridge, tunnel, or approach and for one year after it is opened to traffic, and subject to the conditions and limitations of such section 129, advance to such State 100 per centum of the cost of construction of such bridge, tunnel, or approach. So much of the amount so advanced that exceeds the Federal share of such construction cost shall be repaid to the United States as follows:

(1) 50 per centum within one year of the date such bridge, tunnel, or approach is opened to traffic,

(2) 25 per centum within two years of such date of opening, and

(3) 25 per centum within three years of such date of opening.

Any advance made to a State under this subsection shall be from the funds apportioned to said State for the Interstate System. So much of any advance made to a State under this subsection required to be repaid shall be repaid with interest at a rate determined by the Secretary. If a State receives any advance under this subsection with respect to any toll bridge, tunnel, or approach thereto, then the provisions of section 103(e)(4) of this title shall not apply to such bridge, tunnel, or approach.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 901; Pub. L. 95–599, title I, § 118, Nov. 6, 1978, 92 Stat. 2699.)

AMENDMENTS

1978—Pub. L. 95–599 designated existing provisions as subsec. (a) and added subsec. (b).

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) An emergency fund is authorized for expenditure by the Secretary, subject to the provisions of this section and section 120 of this title, for the repair or reconstruction of highways, roads, and trails which the Secretary shall find have suffered serious damage as the result of (1) natural disaster over a wide area such as by floods, hurricanes, tidal waves, earthquakes, severe storms, or landslides, or (2) catastrophic failures from any external cause, in any part of the United States. In no event shall funds be used pursuant to this section for the repair or reconstruction of bridges which have been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to structural deficiencies or physical deterioration. Subject to the following limitations, there is hereby authorized to be appropriated from the Highway Trust Fund 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 $50,000,000 is authorized to be expended in any fiscal year ending before July 1, 1972, and not more than $100,000,000 is authorized to be expended in any one fiscal year commencing after June 30, 1972, and ending before June 1, 1976, to carry out the provisions of this section and an additional amount not to exceed $100,000,000 is further authorized to be expended in the fiscal year ending June 30, 1973, to carry out the provisions of this section, and not more than $25,000,000 for the three-month period beginning July 1, 1976, and ending September 30, 1976, is authorized to be expended to carry out the provisions of this section, and not more than $100,000,000 is authorized to be expended in any one fiscal year commencing after September 30, 1976, and not more than $100,000,000 is authorized to be expended in any one 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 expenditures under this section is less than the amount authorized to be expended in such fiscal year, the unexpended balance of such amount shall remain available for expenditure during the next two succeeding fiscal years in addition to amounts otherwise available to carry out this section in such years, and (2) prior to the fiscal year ending September 30, 1978, 60 per centum of the expenditures under this section for any fiscal year 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 moneys in the Treasury not otherwise appropriated, and for any fiscal year thereafter, 100 per centum of such expenditures are authorized to be appropriated out of the Highway Trust Fund. 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. Pending such appropriation or replenishment the Secretary may expend from any funds heretofore or hereafter appropriated for expenditure in accordance with the provisions of this title, including existing Federal-aid appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized, such appropriations to be reimbursed from the appropriations herein authorized when made.

(b) 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 (c) 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 (c) of this section, no funds shall be so expended unless the Secretary has received an application therefor from the State highway 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 Disaster Relief and Emergency Assistance Act (Public Law 93–288) concurrence of the Secretary is not required.

(c) 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 on any of the Federal-aid highway systems.

(d) 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.)

REFERENCES IN TEXT

The Disaster Relief and Emergency Assistance Act, referred to in subsec. (b), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, known as the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 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

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, was executed by making the substitution for ''on the Federal-aid highway systems, including the Interstate System'' in two places to reflect the probable intent of Congress.

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 pro-

visions 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.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 104, 120, 157 of this title.

§ 126. Diversion

(a) Since it is unfair and unjust to tax motor-vehicle transportation unless the proceeds of such taxation are applied to the construction, improvement, or maintenance of highways, after June 30, 1935, Federal aid for highway construction shall be extended only to those States that use at least the amounts provided by law on June 18, 1934, for such purposes in each State from State motor vehicle registration fees, licenses, gasoline taxes, and other special taxes on motor-vehicle owners and operators of all kinds for the construction, improvement, and maintenance of highways and administrative expenses in connection therewith, including the retirement of bonds for the payment of which such revenues have been pledged, and for no other purposes, under such regulations as the Secretary of Transportation shall promulgate from time to time.

(b) In no case shall the provisions of this section operate to deprive any State of more than one-third of the entire apportionment authorized under this chapter to which that State would be entitled in any fiscal year. The amount of any reduction in a State's apportionment shall be reapportioned in the same manner as any other unexpended balance at the end of the period during which it otherwise would be available in accordance with section 104(b) of this title.

(Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 901; Pub. L. 93–87, title I, § 152(3), Aug. 13, 1973, 87 Stat. 276.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–87 substituted ''Secretary of Transportation'' for ''Secretary of Commerce''.

§ 127. Vehicle weight limitations—Interstate System

(a) IN GENERAL.—No funds shall be apportioned in any fiscal year under section 104(b)(1) of this title to 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. 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. 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)(1)[1] of this title. 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. 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. 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. 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.

(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

[1] See References in Text note below.

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 comment 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 139(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.

(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.)

REFERENCES IN TEXT

The date of enactment of Federal-Aid Highway Amendments of 1974, referred to in subsec. (a), means Jan. 4, 1975, the date on which Pub. L. 93–643 was approved.

Section 118(b) of this title, referred to in subsec. (a), was struck out and a new subsec. (b) was added by Pub. L. 102–240, title I, §1020(a), Dec. 18, 1991, 105 Stat. 1948. Provisions formerly contained in subsec. (b)(1) of section 118 appear in subsec. (b)(2).

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

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 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.

PUBLIC TRANSIT VEHICLES

Section 1023(h) of Pub. L. 102–240, 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, 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 the date on which Federal-aid highway and transit programs are reauthorized after the date of the enactment of the National Highway System Designation Act of 1995 [Nov. 28, 1995], to any vehicle which is regularly and exclusively used as an intrastate public agency transit passenger bus.

''(2) STUDY.—The Secretary shall conduct a study on the maximum axle weight limitations on the Dwight D. Eisenhower System of Interstate and Defense Highways established under section 127 of title 23, United States Code, or under State laws, as they apply to public transit vehicles. The study shall determine whether or not public transit vehicles should be exempted from the requirements of section 127 or State laws or if such laws should be modified with regard to public transit vehicles. In making such determination, the Secretary shall consider current transit vehicle design standards, the implications of the Americans with Disabilities Act [of 1990, 42 U.S.C. 12101 et seq.] and Clean Air Act [42 U.S.C. 7401 et seq.] requirements on such design standards, and the potential impact of revised design standards on transit ridership capacity, operating and replacement costs, air quality concerns, and highway wear and tear.

''(3) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the result of the study conducted under paragraph (2), together with recommendations.''

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 141 of this title; title 49 sections 5112, 31112.

§ 128. Public hearings

(a) Any State highway 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 highway 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 highway 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.)

AMENDMENTS

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 reimburse 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 has been classified as 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.

(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 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 the Commonwealth of Puerto Rico) 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 the Commonwealth of Puerto Rico, 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 Domin-

[1] So in original. The word ''and'' probably should not appear.

ion 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.

(d) PILOT PROGRAM.—

(1) AUTHORIZATION FOR FEDERAL PARTICIPATION.—Subject to the provisions of this subsection, the Secretary shall establish a pilot program which permits Federal participation in 9 toll facilities on the same basis and in the same manner as in the construction of free highways under this chapter.

(2) LIMITATION ON TYPES OF FACILITIES.—The Secretary may only permit Federal participation under this subsection in the following type of facilities:

(A) The construction of a new toll highway, bridge, or tunnel (other than a highway on the Interstate System).

(B) The reconstruction of an existing highway, bridge, or tunnel to expand its capacity (other than a highway, bridge, or tunnel on the Interstate System).

(3) LIMITATION ON NUMBER OF FACILITIES.—The Secretary may only permit Federal participation under this subsection in 9 facilities. One of such facilities shall be carried out in each of the following: Orange County, California, the State of Texas, the States of Pennsylvania and West Virginia, the State of Florida, States[2] of Georgia and West Virginia, and the State of South Carolina. The locations of the other 2 facilities shall be at the discretion of the Secretary; except that not more than 2 facilities carried out under this subsection may be located in a State. The Governor of the States of Pennsylvania and West Virginia shall select the facility to be carried out in such State. 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.

(4) LIMITATION ON FEDERAL SHARE.—Notwithstanding any other provision of law, the Federal share payable for the construction or reconstruction of a toll highway, bridge, or tunnel under this subsection shall not exceed 35 percent.

(5) PUBLIC OWNERSHIP REQUIREMENT.—Each highway, bridge, tunnel, or approach thereto under this subsection must be publicly owned and operated; except that, under this subsection, Federal funds may participate in the approaches to a toll highway, toll bridge, or toll tunnel whether the highway, bridge, or tunnel is to be or has been constructed by a State or other public authority.

(6) LIMITATIONS ON USE OF REVENUES.—Before the Secretary may permit Federal participation under this subsection in a State, the State highway department (and, in the case of the State of Texas, the Texas Turnpike Authority) must enter into an agreement with the Secretary which provides that all toll revenues received from operation of the tolled facility constructed or reconstructed under this subsection will be used only on the tolled facility, and only for construction or reconstruction costs, or for the costs necessary for the proper operation, maintenance, and debt service of the tolled facility, including resurfacing, reconstruction, rehabilitation, and restoration.

(7) LIMITATION ON FEDERAL PARTICIPATION TO ORIGINAL CONSTRUCTION.—Except for reconstruction to expand capacity, toll facilities may receive Federal participation under this chapter only once for the original construction or reconstruction of the facility.

(8) EFFECT ON APPORTIONMENT.—Toll mileage constructed or reconstructed under this subsection shall not be used to increase a State's apportionment under any apportionment formula.

(9) NEW TOLL HIGHWAY DEFINED.—For purposes of this subsection, the term ''new toll highway, bridge, or tunnel'' shall mean initial construction of a highway, bridge, or tunnel on a new location at any time before it is open to traffic and shall not include any improvements to a toll highway, bridge, or tunnel after it is open to traffic.

(10) SPECIAL RULE FOR FUNDING OF TEXAS PROJECT.—Upon request of the Texas Department of Highways and Public Transportation and subject to such terms and conditions as such Department and the Texas Turnpike Authority may agree, the Secretary shall reimburse the Texas Turnpike Authority for the Federal share of the costs of construction of the project carried out in the State of Texas 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 of Texas under this chapter and available for obligation on projects on the Federal-aid primary system in such State.

(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.)

[2] So in original. Probably should be ''the States''.

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

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 stud-

ies, 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 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.

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

Section 1064 of Pub. L. 102–240, as amended by Pub. L. 102–388, title III, §332, Oct. 6, 1992, 106 Stat. 1550, provided that:

''(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) of title 23, United States Code.

''(b) FEDERAL SHARE.—The Federal share payable for construction of ferry boats and ferry terminal facilities under this section shall be 80 percent of the cost thereof.

''(c) FUNDING.—There shall be available, out of the Highway Trust Fund (other than the Mass Transit Account), to the Secretary for obligation at the discretion of the Secretary $14,000,000 for fiscal year 1992, $17,000,000 per fiscal year for each of fiscal years 1993, 1994, 1995, and 1996, and $18,000,000 for fiscal year 1997 in carrying out this section. Such sums shall remain available until expended.

''(d) APPLICABILITY OF TITLE 23.—All provisions of chapter 1 of title 23, United States Code, 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.

''(e) TREATMENT OF CERTAIN ROADS.—For purposes of this section, North Carolina State Routes 12, 45, 306, 615, and 168 and United States Route 421 in the State of North Carolina shall be treated as principal arterials. For further purposes of this section, the access road from Interstate Business Route 75 to the Sugar Island Ferry Service in Chippewa County, Michigan, and the access road from United States Route 31 to the Beaver Island Ferry Service in Charlevoix County, Michigan, shall be treated as principal arterials.''

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.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 124, 148, 301 of this title; title 33 section 535f.

§ 130. Railway-highway crossings

(a) Except as provided in subsection (d)[1] of section 120 of this title 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, except as provided in subsection (d)[1] of section 120 of this title 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 highway 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 establish 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.—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.

(f) APPORTIONMENT.—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

[1] See References in Text note below.

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.

(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 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 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.

(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.)

REFERENCES IN TEXT

Subsection (d) of section 120 of this title, referred to in subsec. (a), was struck out and former subsec. (e) of section 120 was redesignated subsec. (d) by Pub. L. 102–240, title I, § 1021(a), (b)(2), Dec. 18, 1991, 105 Stat. 1950, 1951.

AMENDMENTS

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-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] So in original. Probably should be ''railroad-highway''.

''(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.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 104, 121, 133, 307, 409 of this title.

§ 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

highway 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 highway 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 highway 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, 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 pub-

lic, 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.

(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.)

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.

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

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 Interstate 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.

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. 89–885, 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).''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 148 of this title.

§ 132. Payments on Federal-aid projects undertaken by a Federal agency

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. 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.)

§ 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 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 and publicly owned intracity or intercity bus terminals and facilities.

(3) Carpool projects, fringe and corridor parking facilities and programs, and bicycle transportation and pedestrian walkways in accordance with section 217.

(4) Highway and transit safety 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.

(7) Surface transportation planning programs.

(8) Transportation enhancement activities.

(9) Transportation control measures listed in section 108(f)(1)(A) (other than clauses (xii) and (xvi)) of the Clean Air Act.

(10) Development and establishment of management systems under section 303.

(11) In accordance with all applicable Federal law and regulations, participation in wetlands mitigation efforts related to projects funded under this title, which may include participation in wetlands mitigation banks; contributions to statewide and regional efforts to conserve, restore, enhance and create wetlands; and development of statewide and regional 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.

(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) FOR SAFETY PROGRAMS.—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.

(2) FOR TRANSPORTATION ENHANCEMENT ACTIVITIES.—10 percent of the funds apportioned to a State under section 104(b)(3) for a fiscal year 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 subparagraphs (C) and (D), 62.5 percent of the remaining 80 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 tobe[1] obligated under subparagraph (A)(ii),

[1] So in original. Probably should be "to be".

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) SPECIAL RULE FOR CERTAIN STATES.—In the case of a State in which—

(i) greater than 80 percent of the population of the State is located in 1 or more metropolitan statistical areas, and

(ii) greater than 80 percent of the land area of such State is owned by the United States,

the 62.5 percentage specified in the first sentence of subparagraph (A) shall be 35 percent and the percentage specified in the second sentence of subparagraph (A) shall be 65 percent.

(D) NONCONTIGUOUS STATES EXEMPTION.—Subparagraph (A) shall not apply to any State which is noncontiguous with the continental United States.

(E) 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 highway 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) CERTIFICATION.—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.

(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. Payments shall not exceed the Federal share of costs incurred as of the date the State requests payments.

(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 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.

(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.

(f) ALLOCATION OF OBLIGATION AUTHORITY.—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.

(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.)

REFERENCES IN TEXT

Section 108(f)(1)(A) of the Clean Air Act, referred to in subsec. (b)(9), is classified to section 7408(f)(1)(A) of Title 42, The Public Health and Welfare.

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

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

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 104, 117, 134, 157, 160 of this title; title 49 sections 5303, 5305.

§ 134. Metropolitan planning

(a) GENERAL REQUIREMENTS.—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.

(b) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

(1) IN GENERAL.—To carry out the transportation planning process required by this sec-

tion, a metropolitan 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.

(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on the date of the enactment of this section, of a public agency with multimodal transportation responsibilities to—

(A) develop plans and programs 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.—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.

(5) REDESIGNATION.—

(A) PROCEDURES.—A metropolitan planning organization may be redesignated 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) as appropriate to carry out this section.

(B) CERTAIN REQUESTS TO REDESIGNATE.—A metropolitan planning organization shall be redesignated upon request of a unit or units of general purpose local government representing at least 25 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) in any urbanized area (i) whose population is more than 5,000,000 but less than 10,000,000, or (ii) which is an extreme nonattainment area for ozone or carbon monoxide as defined under the Clean Air Act. Such redesignation shall be accomplished using procedures established by subparagraph (A).

(6) TREATMENT OF LARGE URBAN AREAS.—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.

(c) METROPOLITAN AREA BOUNDARIES.—For the purposes of this section, the boundaries of a metropolitan area shall be determined by agreement between the metropolitan planning organization and the Governor. 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.

(d) COORDINATION IN MULTISTATE AREAS.—

(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.

(e) COORDINATION OF MPO'S.—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 programs required by this section.

(f) FACTORS TO BE CONSIDERED.—In developing transportation plans and programs pursuant to this section, each metropolitan planning organization shall, at a minimum, consider the following:

(1) Preservation of existing transportation facilities and, where practical, ways to meet transportation needs by using existing transportation facilities more efficiently.

(2) The consistency of transportation planning with applicable Federal, State, and local energy conservation programs, goals, and objectives.

(3) The need to relieve congestion and prevent congestion from occurring where it does not yet occur.

(4) The likely effect of transportation policy decisions on land use and development and the consistency of transportation plans and programs with the provisions of all applicable short- and long-term land use and development plans.

(5) The programming of expenditure on transportation enhancement activities as required in section 133.

(6) The effects of all transportation projects to be undertaken within the metropolitan area, without regard to whether such projects are publicly funded.

(7) International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation areas, monuments and historic sites, and military installations.

(8) The need for connectivity of roads within the metropolitan area with roads outside the metropolitan area.

(9) The transportation needs identified through use of the management systems required by section 303 of this title.

(10) Preservation of rights-of-way for construction of future transportation projects, including identification of unused rights-of-way which may be needed for future transportation corridors and identification of those corridors for which action is most needed to prevent destruction or loss.

(11) Methods to enhance the efficient movement of freight.

(12) The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement.

(13) The overall social, economic, energy, and environmental effects of transportation decisions.

(14) Methods to expand and enhance transit services and to increase the use of such services.

(15) Capital investments that would result in increased security in transit systems.

(16) Recreational travel and tourism.

(g) DEVELOPMENT OF LONG RANGE PLAN.—

(1) IN GENERAL.—Each metropolitan planning organization shall prepare, and update periodically, according to a schedule that the Secretary determines to be appropriate, a long range plan for its metropolitan area in accordance with the requirements of this subsection.

(2) LONG RANGE PLAN.—A long range plan under this section shall be in a form that the Secretary determines to be appropriate and shall, at a minimum:

(A) Identify transportation facilities (including but not necessarily limited to major roadways, transit, and multimodal and intermodal facilities) 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 long range plan, the metropolitan planning organization shall consider factors described in subsection (f) as such factors relate to a 20-year forecast period.

(B) 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.

(C) Assess capital investment and other measures necessary to—

(i) ensure the preservation of the existing metropolitan transportation system, including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization, and rehabilitation of existing and future transit facilities; and

(ii) make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods.

(D) Indicate as appropriate proposed transportation 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 long range plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

(4) PARTICIPATION BY INTERESTED PARTIES.—Before approving a long range plan, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the long range plan, in a manner that the Secretary deems appropriate.

(5) PUBLICATION OF LONG RANGE PLAN.—Each long range plan prepared by a metropolitan planning organization shall be—

(i) published or otherwise made readily available for public review; and

(ii) submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

(h) TRANSPORTATION IMPROVEMENT PROGRAM.—

(1) DEVELOPMENT.—The metropolitan planning organization designated for a metropolitan area, in cooperation with the State and affected transit operators, shall develop a transportation improvement program for the area for which such organization is designated. In developing the program, the metropolitan planning organization 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 program. The program shall be updated at least once every 2 years and shall be approved by the metropolitan planning organization and the Governor.

(2) PRIORITY OF PROJECTS.—The transportation improvement program shall include the following:

(A) A priority list of projects and project segments to be carried out within each 3-year period after the initial adoption of the transportation improvement program.

(B) A financial plan that demonstrates how the 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 plan, and recommends any innovative financing techniques to finance needed projects and programs, including value capture, tolls, and congestion pricing.

(3) SELECTION OF PROJECTS.—Except as otherwise provided in subsection (i)(4), project selection in metropolitan areas for projects involving Federal participation shall be carried out by the State in cooperation with the metropolitan planning organization and shall be in conformance with the transportation improvement program for the area.

(4) MAJOR CAPITAL INVESTMENTS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall initiate a rulemaking proceeding to conform review requirements for transit projects under the National Environmental Policy Act of 1969 to comparable requirements under such Act applicable to highway projects. Nothing in this section shall be construed to affect the applicability of such Act to transit or highway projects.

(5) INCLUDED PROJECTS.—A transportation improvement program for a metropolitan area developed under this subsection shall include projects within the area which are proposed for funding under this title and chapter 53 of title 49 and which are consistent with the long range plan developed under subsection (g) for the area. 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 within the time period contemplated for completion of the project.

(6) NOTICE AND COMMENT.—Before approving a transportation improvement program, a metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

(i) TRANSPORTATION MANAGEMENT AREAS.—

(1) DESIGNATION.—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.

(2) TRANSPORTATION PLANS AND PROGRAMS.—Within a transportation management area, transportation plans and programs shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and transit operators.

(3) CONGESTION MANAGEMENT SYSTEM.—Within a transportation management area, the transportation planning process under this section shall include a congestion management system that provides for effective management 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.

(4) SELECTION OF PROJECTS.—All projects carried out within the boundaries of a transportation management area with Federal participation pursuant to this title (excluding projects undertaken 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.

(5) CERTIFICATION.—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 apportion-

ments 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.

(j) ABBREVIATED PLANS AND PROGRAMS FOR CERTAIN AREAS.—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.

(k) TRANSFER OF FUNDS.—Funds made available for a highway project under chapter 53 of title 49 shall be transferred to and administered by the Secretary in accordance with the requirements of this title. Funds made available for a transit project under the Federal-Aid Highway Act of 1991 shall be transferred to and administered by the Secretary in accordance with the requirements of chapter 53 of title 49. 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 chapter 53 of title 49 regarding non-Federal share shall apply to chapter 53 funds used for highway projects.

(*l*) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—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 programmed in such area for any highway project that will result in a significant increase in carrying capacity for single-occupant vehicles unless the project is part of an approved congestion management system.

(m) 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.

(n) REPROGRAMMING OF SET ASIDE FUNDS.—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.

(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.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsecs. (b)(2), (3) and (h)(4), probably means the date of enactment of Pub. L. 102–240, which amended this section generally and which was approved Dec. 18, 1991.

The Clean Air Act, referred to in subsecs. (b)(5)(B), (c), (e), (g)(3), (j), and (*l*), 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. (h)(4), 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. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

Public Law 96–551, referred to in subsec. (i)(1), is Pub. L. 96–551, Dec. 19, 1980, 94 Stat. 3233, which is not classified to the Code.

The Federal-Aid Highway Act of 1991, referred to in subsec. (k), was not enacted into law. However, provisions referred to as the Federal-Aid Highway Act of 1991 were contained in several bills and are similar to those appearing in part A of title I of Pub. L. 102–240, Dec. 18, 1991, 105 Stat. 1914, which Act is known as the Intermodal Surface Transportation Efficiency Act of 1991. For classification of that Act to the Code, see Short Title of 1991 Amendment note set out under section 101 of Title 49, Transportation, and Tables.

AMENDMENTS

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 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.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 103, 104, 115, 133, 135, 149, 157, 217, 307 of this title; title 42 sections 7504, 7506; title 49 section 5305.

§135. Statewide planning

(a) GENERAL REQUIREMENTS.—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.

(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—In carrying out planning under this section, a State shall coordinate such planning with the transportation planning activities carried out under section 134 of this title for metropolitan areas of the State and shall carry out its responsibilities for the development of the transportation portion of the State implementation plan to the extent required by the Clean Air Act.

(c) STATE PLANNING PROCESS.—Each State shall undertake a continuous transportation planning process which shall, at a minimum, consider the following:

(1) The results of the management systems required pursuant to subsection (b).

(2) Any Federal, State, or local energy use goals, objectives, programs, or requirements.

(3) Strategies for incorporating bicycle transportation facilities and pedestrian walkways in projects where appropriate throughout the State.

(4) International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation and scenic areas, monuments and historic sites, and military installations.

(5) The transportation needs of nonmetropolitan areas through a process that includes consultation with local elected officials with jurisdiction over transportation.

(6) Any metropolitan area plan developed pursuant to section 134.

(7) Connectivity between metropolitan areas within the State and with metropolitan areas in other States.

(8) Recreational travel and tourism.

(9) Any State plan developed pursuant to the Federal Water Pollution Control Act.

(10) Transportation system management and investment strategies designed to make the most efficient use of existing transportation facilities.

(11) The overall social, economic, energy, and environmental effects of transportation decisions.

(12) Methods to reduce traffic congestion and to prevent traffic congestion from developing in areas where it does not yet occur, including methods which reduce motor vehicle travel, particularly single-occupant motor vehicle travel.

(13) Methods to expand and enhance transit services and to increase the use of such services.

(14) The effect of transportation decisions on land use and land development, including the need for consistency between transportation decisionmaking and the provisions of all applicable short-range and long-range land use and development plans.

(15) The transportation needs identified through use of the management systems required by section 303 of this title.

(16) Where appropriate, the use of innovative mechanisms for financing projects, including value capture pricing, tolls, and congestion pricing.

(17) Preservation of rights-of-way for construction of future transportation projects, including identification of unused rights-of-way which may be needed for future transportation corridors, and identify those corridors for which action is most needed to prevent destruction or loss.

(18) Long-range needs of the State transportation system.

(19) Methods to enhance the efficient movement of commercial motor vehicles.

(20) The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement.

(d) ADDITIONAL REQUIREMENTS.—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.

(e) LONG-RANGE PLAN.—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.

(f) TRANSPORTATION IMPROVEMENT PROGRAM.—

(1) DEVELOPMENT.—The State shall develop a transportation improvement program for all areas of the State. With respect to metropolitan areas of the State, the program shall be developed in cooperation with metropolitan planning organizations designated for metropolitan areas in the State under section 134. In developing the program, the Governor 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 program.

(2) INCLUDED PROJECTS.—A transportation improvement program for a State developed under this subsection shall include projects within the boundaries of the State which are proposed for funding under this title and chapter 53 of title 49, which are consistent with the long-range plan developed under this section for the State, which are consistent with the metropolitan transportation improvement program, and which in areas designated as nonattainment for ozone or carbon monoxide under the Clean Air Act conform with the applicable State implementation plan developed pursuant to the Clean Air Act. 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 such project within the time period contemplated for completion of the project. The program shall also reflect the priorities for programming and expenditures of funds, including transportation enhancements, required by this title.

(3) PROJECT SELECTION FOR AREAS LESS THAN 50,000 POPULATION.—Projects undertaken in areas of less than 50,000 population (excluding projects undertaken on the National Highway System and pursuant to the bridge and Interstate maintenance programs) shall be selected by the State in cooperation with the affected local officials. Projects undertaken in such areas on the National Highway System or pursuant to the bridge and Interstate maintenance programs shall be selected by the State in consultation with the affected local officials.

(4) BIENNIAL REVIEW AND APPROVAL.—A transportation improvement program developed under this subsection shall be reviewed and approved no less frequently than biennially by the Secretary.

(g) FUNDING.—Funds set aside pursuant to section 307(c)(1) of title 23, United States Code, shall be available to carry out the requirements of this section.

(h) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT SYSTEMS.—For purposes of this section, section 134, and sections 5303–5306 and 5323(k) of title 49, State laws, rules or regulations pertaining to congestion management systems or programs may constitute the congestion management system under this Act[1] if the Secretary finds that the State laws, rules or regulations are consistent with, and fulfill

[1] See References in Text note below.

the intent of, the purposes of this section, section 134 or sections 5303–5306 and 5323(k), as appropriate.

(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.)

REFERENCES IN TEXT

The Clean Air Act, referred to in subsecs. (b) and (f)(2), 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 Federal Water Pollution Control Act, referred to in subsec. (c)(9), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

This Act, referred to in subsec. (h), 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.

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

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.

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.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 103, 108, 115, 133, 134, 149, 217, 307 of this title; title 49 section 5323.

§ 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 relocation, 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 131 of this title.

§ 137. Fringe and corridor parking facilities

(a) The Secretary may approve as a project on the Federal-aid urban system 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 highway 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)(5)(B) of this title, 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.)

AMENDMENTS

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).

§ 138. Preservation of parklands

It is hereby 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.

(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.)

REFERENCES IN TEXT

The effective date of the Federal-Aid Highway Act of 1968, referred to in text, is the effective date of Pub. L. 90–495, which was approved Aug. 23, 1968.

AMENDMENTS

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.

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. Additions to Interstate System

(a) Whenever the Secretary determines that a highway on the Federal-aid primary system meets all of the standards of a highway on the Interstate System and that such highway is a logical addition or connection to the Interstate

System, he may, upon the affirmative recommendation of the State or States involved, designate such highway as a part of the Interstate System. The mileage of any highway designated as part of the Interstate System under this section shall not be charged against the limitation established by the first sentence of section 103(e) of this title. The designation of a highway as part of the Interstate System under this subsection shall create no Federal financial responsibility with respect to such highway; except that any State may use funds available to it under sections 104(b)(1) and 104(b)(5)(B) of this title for the resurfacing, restoring, rehabilitating, and reconstructing of any highway designated as a route on the Interstate System under this subsection before the date of enactment of this sentence.

(b) Whenever the Secretary determines that a highway on the Federal-aid primary system would be a logical addition or connection to the Interstate System and would qualify for designation as a route on that system in the same manner as set forth in paragraph 1 of subsection (e) of section 103 of this title, he may upon the affirmative recommendation of the State or States involved designate such highway as a future part of the Interstate System. Such designation shall be made only upon the written agreement of the State or States involved that such highway will be constructed to meet all the standards of a highway on the Interstate System within twelve years of the date of the agreement between the Secretary and the State or States involved. The mileage of any highway designated as a future part of the Interstate System under this subsection shall not be charged against the limitations established by the first sentence of section 103(e) of this title. The designation of a highway as part of the Interstate System under this subsection shall create no Federal financial responsibility with respect to such highway; except that any State may use funds available to it under sections 104(b)(1) and 104(b)(5)(B) of this title for the resurfacing, restoring, rehabilitating, and reconstructing of any highway designated as a route on the Interstate System under this subsection before the date of enactment of this sentence. In the event that the State or States involved have not substantially completed the construction of any highway designated under this subsection within the time provided for in the agreement between the Secretary and State or States involved, the Secretary shall remove the designation of such highway as a future part of the Interstate System. Removal of such designation as result of failure to comply with the agreement provided for in this subsection shall in no way prohibit the Secretary from designating such route as part of the Interstate System pursuant to subsection (a) of this section or under any other provision of law providing for addition to the Interstate System. No law, rule, regulation, map, document, or other record of the United States, or of any State or political subdivision thereof, shall refer to any highway under this section, nor shall any such highway be signed or marked, as a highway on the Interstate System until such time as such highway is constructed to the geometric and construction standards for the Interstate System and has been designated as a part of the Interstate System.

(c) The Secretary shall designate those portions of highway segments on the Federal-aid primary system in States which have no Interstate System that are logical components to a system serving the State's principal cities, national defense needs and military installations, and traffic generated by rail, water, and air transportation modes. The designated segments shall have been constructed to the geometric and construction standards adequate for current and probable future traffic demands and the needs of the locality of the segment. The mileage of any highway designated as part of the Interstate System under this subsection shall not be charged against the limitation established by the first sentence of section 103(e)(1) of this title. The designation of a highway under this subsection shall create no Federal financial responsibility with respect to such highway, except that the State involved may use Federal-aid highway funds available to it under sections 104(b)(1) and 104(b)(5)(B) of this title, for the resurfacing, rehabilitation, restoration, and reconstruction of a highway designated as a route on the Interstate System under this subsection.

(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.)

REFERENCES IN TEXT

The date of enactment of this sentence, referred to in subsecs. (a) and (b), means the date of enactment of Pub. L. 98–229, which was approved Mar. 9, 1984.

AMENDMENTS

1984—Subsec. (a). Pub. L. 98–229 substituted ''under this subsection'' for ''under this section'', ''highway; except'' for ''highway, except'', ''sections 104(b)(1) and 104(b)(5)(B) of this title'' for ''section 104(b)(1) of this title and, beginning with funds apportioned for fiscal year 1984, under section 104(b)(5)(B) of this title'', and ''highway designated as a route on the Interstate System under this subsection before the date of enactment of this sentence'' for ''route or any portion thereof on the Interstate System on which a project may be approved under the second sentence of section 119(a) of this title''.

Subsec. (b). Pub. L. 98–229 substituted provision that designation of a highway as part of the Interstate System under this subsection create no Federal financial responsibility with respect to such highway, except that any State may use funds available to it under sections 104(b)(1) and 104(b)(5)(B) of this title for resurfacing, restoring, rehabilitating, and reconstructing any highway designated as a route on the Interstate System under this subsection before the date of enactment of this sentence for provision that designation of a highway as a future part of the Interstate System under this subsection create no Federal financial responsibility, except that Federal-aid highway funds otherwise available to States for the construction of Federal-aid primary system highways be used for reconstruction of a highway designated as a route on the Interstate System under this subsection.

1983—Subsec. (a). Pub. L. 97–424 inserted exception to disclaimer of Federal responsibility for designated highways that any State may use funds available to it

under section 104(b)(1) of this title and, beginning with funds apportioned for fiscal year 1984, under section 104(b)(5)(B) of this title for the resurfacing, restoring, rehabilitating, and reconstructing of any route or portion thereof on the Interstate System on which a project may be approved under the second sentence of section 119(a) of this title.

1981—Subsec. (c). Pub. L. 97–134 added subsec. (c).

1976—Subsec. (b). Pub. L. 94–280 substituted ''subsection (e) of section 103 of this title'' and ''section 103(e) of this title'' for ''subsection (d) of section 103 of this title'' and ''section 103(d) of this title'', respectively.

1970—Subsec. (a). Pub. L. 91–605, §§106(b)(1), 140, designated existing provisions as subsec. (a) and as so designated substituted ''section 103(e)'' for ''section 103(d)''.

Subsec. (b). Pub. L. 91–605, §140, added subsec. (b).

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 103, 104, 118, 119, 127 of this title.

§ 140. Nondiscrimination

(a) Prior to approving any programs for projects as provided for in subsection (a) of section 105 of this title, 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. He 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 shall, where he considers it necessary to assure equal employment opportunity, 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. The Secretary shall periodically obtain from the Secretary of Labor and the respective State highway departments information which will enable him to judge compliance with the requirements of this section and the Secretary of Labor shall render to the Secretary such assistance and information as he 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 highway construction training, including skill improvement programs. 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. 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 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 highway 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 subsection 104(a) of this title, the Secretary shall deduct such sums as he may deem 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)[1] of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252(e)).

(d) INDIAN EMPLOYMENT AND CONTRACTING.—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.)

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)).

[1] See References in Text note below.

AMENDMENTS

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)(5) of this title 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)(5) of this title 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.)

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

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.''

§ 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 paragraph (5) of subsection (b) of section 104 of this title 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

[1] So in original.

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) (other than section 104(b)(5)(A)) 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, 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) 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.)

[2] So in original. Probably should be ''exists''.

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.

AMENDMENTS

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 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.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 156 of this title; title 15 section 794; title 49 section 5323.

§ 143. Economic growth center development highways

(a) In order to promote the desirable development of the Nation's natural resources, to revitalize and diversify the economy of rural areas and smaller communities, to enhance and disperse industrial growth, to encourage more balanced population patterns, to check, and, where possible, to reverse current migratory trends from rural areas and smaller communities, and to improve living conditions and the quality of the environment, the Secretary is authorized to make grants to States for projects for the construction, reconstruction, and improvement of development highways on a Federal-aid system (other than the Interstate System) to serve and promote the development of economic growth centers and surrounding areas, encourage the location of business and industry in rural areas, facilitate the mobility of labor in sparsely populated areas, and provide rural citizens with improved highways to such public and private services as health care, recreation, employment, education, and cultural activities, or otherwise encourage the social and economic development of rural communities, and for planning, surveys, and investigations in connection therewith.

(b) Each Governor may transmit to the Secretary his recommendations for (1) the selection of economic growth centers within the State, (2) priorities for the construction of development highways on a Federal-aid system (other than the Interstate System) to serve such centers, and (3) such other information as may be required by the Secretary, for his consideration in approving the selection of economic growth centers for projects.

(c) Upon the application of the State highway department of any State in which an economic growth center approved by the Secretary as eligible for a project is located, the Secretary is authorized to pay up to 100 per centum of the cost of engineering and economic surveys or other investigations necessary for the planning and design of development highways on a Federal-aid system (other than the Interstate System) needed to provide appropriate access to such growth center, including publicly owned airport facilities and public ports for water transportation which may be established to serve it, in order to carry out the purposes of this section.

(d) Except as otherwise provided in this section, all of the provisions of this title applicable to highways on the Federal-aid system on which such development highway is located except those which the Secretary determines are inconsistent with this section shall apply to development highways and to funds authorized to carry out this section. For the purposes of sections 105, 106, and 118 of this title, funds authorized to carry out this section shall be deemed to be apportioned on January 1 next preceding the commencement of the fiscal year for which authorized. No State shall receive in any fiscal year more than 15 per centum of the funds authorized to carry out this section for such fiscal year.

(e) Except as otherwise provided in subsection (c) of this section, 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.

(f)(1) Except in the case of a project subject to paragraph (2) of this subsection, no project shall be approved by the Secretary under this section until he has determined that such project will promote the aims and purposes set forth in subsection (a) of this section and that the economic growth center to be benefited will meet such criteria as he, after consultation with the Secretary of Commerce, deems necessary, including, but not limited to, the following: (1) growth centers shall be geographically and economically capable of contributing significantly to the development of the area, and (2) growth centers shall have a population not in excess of one hundred thousand according to the latest available Federal census. In approving projects the Secretary shall give preference to those areas offering the most potential for future economic growth.

(2) In the case of a project proposed to be conducted within the Appalachian region as defined in section 403 of the Appalachian Regional Development Act of 1965, no project shall be approved by the Secretary under this section until he shall have consulted with the Federal Cochairman of the Appalachian Regional Commission. In the case of a project proposed to be conducted within an economic development region

as defined in title V of the Public Works and Economic Development Act of 1965, no project shall be approved by the Secretary under this section until he shall have consulted with the Federal Cochairman for such region and the Secretary of Commerce. In consultation with the appropriate official, the Secretary shall establish criteria for the selection of growth centers eligible for assistance under this section such that the aims and purposes set forth in subsection (a) of this section will be promoted. Such criteria shall include, but not be limited to, the following: (1) growth centers shall be geographically and economically capable of contributing significantly to the development of the area, (2) growth centers shall have a population not in excess of one hundred thousand persons according to the latest available Federal census, and (3) the selection of such growth centers within the Appalachian region and the economic development regions shall take into account the purposes of the Appalachian Regional Development Act of 1965 and the Public Works and Economic Development Act of 1965. In approving projects the Secretary shall give preference to those areas offering the most potential for future economic growth and he shall make arrangements for close coordination throughout the development and implementation of the project with the Federal Cochairman of the Appalachian Regional Commission, or with the appropriate Federal Cochairman of an economic development region, and the Secretary of Commerce, as the case may be.

(g) There is authorized to be appropriated out of the Highway Trust Fund not to exceed $50,000,000 for the fiscal year ending June 30, 1972, and not to exceed $50,000,000 for the fiscal year ending June 30, 1973.

(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.)

REFERENCES IN TEXT

The Appalachian Regional Development Act of 1965, referred to in subsec. (f)(2), is Pub. L. 89–4, Mar. 9, 1965, 79 Stat. 5, as amended, which is set out in the Appendix to Title 40, Public Buildings, Property, and Works. Section 403 of that Act, also referred to in subsec. (f)(2), is set out in section 403 of the Appendix to Title 40. For complete classification of this Act to the Code, see Tables.

The Public Works and Economic Development Act of 1965, referred to in subsec. (f)(2), is Pub. L. 89–136, Aug. 26, 1965, 79 Stat. 552, as amended, which is classified generally to chapter 38 (§ 3121 et seq.) of Title 42, The Public Health and Welfare. Title V of the Public Works and Economic Development Act of 1965, also referred to in subsec. (f)(2), is classified generally to subchapter V (§ 3181 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 3121 of Title 42 and Tables.

AMENDMENTS

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''.

§ 144. Highway bridge replacement and rehabilitation program

(a) 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.

(b) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on any Federal-aid system 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 system, 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 the Federal-aid system, 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) Whenever any State or States make application to the Secretary for assistance in replacing or rehabilitating a highway bridge which the priority system established under subsection (b) and (c) of this section shows to be eligible, the Secretary may approve Federal participation in replacing such bridge with a comparable facility or in rehabilitating such bridge. 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. The Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based upon the unsafe highway bridges in such State, 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. In approving projects (other than projects for bridge structure painting or seismic retrofit or application of such acetate) under this section, the Secretary shall give consideration to those projects which will remove from service those highway bridges most in danger of failure.

(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 system bridges eligible for replacement, (2) Federal-aid system bridges eligible for rehabilitation, (3) off-system bridges eligible for replacement, and (4) off-system bridges eligible for rehabilitation. The square footage 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, 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. 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 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. 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) The Federal share payable on account of any project under this section shall be 80 per centum of the cost thereof.

(g) SET ASIDES.—

(1) DISCRETIONARY BRIDGE PROGRAM.—Of the amounts authorized for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 by section 103 of the Intermodal Surface Transportation Efficiency Act of 1991, all but $57,000,000 in the case of fiscal year 1992, $68,000,000 in the case of fiscal years 1993 and 1994, and $69,000,000 in the case of fiscal years 1995, 1996, and 1997 shall be apportioned as provided in subsection (e) of this section. $49,000,000 in the case of fiscal year 1992, $59,500,000 in the case of fiscal years 1993 and 1994, and $60,500,000 in the case of fiscal years 1995, 1996, and 1997 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 $49,000,000 in the case of fiscal year 1992, $59,500,000 in the case of fiscal years 1993 and 1994, and $60,500,000 in the case of fiscal years 1995, 1996, and 1997 shall be at the discretion of the Secretary, and $8,500,000 per fiscal year ($8,000,000 in the case of fiscal year 1992) of the amount authorized for each of such fiscal years shall be available in accordance with section 1039 of the Intermodal Surface Transportation Efficiency Act of 1991, relating to highway timber bridges.

(2) ELIGIBLE DISCRETIONARY PROJECTS.—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 located under subsection (e) for the fiscal year in which application is made for a grant for such bridge.

(3) OFF-SYSTEM BRIDGES.—Not less than 15 percent nor more than 35 percent of the amount apportioned to each State in each of fiscal years 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, and 1997, shall be expended for projects to replace, rehabilitate, paint or seismic retrofit, or apply calcium magnesium acetate to highway bridges located on public roads, other than those on a Federal-aid system. 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 system when the Secretary determines that such State has inadequate needs to justify such expenditure.

(4) INDIAN RESERVATION BRIDGES.—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 res-

ervation 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.

(h) 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.

(i) 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 at the same time as the report required by section 307(f)[1] of this title is submitted to Congress.

(j) Sums apportioned to a State under this section shall be made available for obligation throughout such State on a fair and equitable basis.

(k) 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.

(*l*) 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 agency 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.

(m) 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.

(n) OFF-SYSTEM BRIDGE PROGRAM.—Notwithstanding any other provision of law, with respect to any project not on a Federal-aid system 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.

[1] See References in Text note below.

(*o*) 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 the Federal-aid system 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 highway agency 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.

(p) 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.

(q) 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.

(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.)

REFERENCES IN TEXT

Section 103 of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (g)(1), probably means section 1003 of Pub. L. 102–240, title I, Dec. 18, 1991, 105 Stat. 1918, which is not classified to the Code. Pub. L. 102–240 does not contain a section 103.

Section 1039 of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (g)(1), is section 1039 of Pub. L. 102–240, which is set out as a note below.

Section 149(d) of the Federal-Aid Highway Act of 1987, referred to in subsec. (g)(2), is section 149(d) of Pub. L. 100–17, which is not classified to the Code.

The General Bridge Act of 1946, referred to in subsec. (h), 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. (h), in 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. (h), is section 9 of act Mar. 3, 1899, ch. 425, 30 Stat. 1151, which is classified to section 401 of Title 33.

Section 307(f) of this title, referred to in subsec. (i), was redesignated section 307(h) by Pub. L. 102–240, title VI, §6005(a), Dec. 18, 1991, 105 Stat. 2170.

The date of enactment of this subsection, referred to in subsec. (k), is Nov. 6, 1978, the date of enactment of Pub. L. 95–599.

The date of the enactment of this subsection, referred to in subsec. (n), is the date of enactment of Pub. L. 100–17, which was approved Apr. 2, 1987.

AMENDMENTS

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 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.''

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) 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 Janu-

ary 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, provided that: ''The Secretary of Transportation shall develop a selection process for discretionary bridges authorized to be funded under section 144(g) 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 104, 115, 140, 151, 157, 204, 303, 307, 409 of this title; title 49 section 104.

§ 145. Federal-State relationship

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.

(Added Pub. L. 93–87, title I, §123(a), Aug. 13, 1973, 87 Stat. 261.)

§ 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 approve for Federal financial assistance from funds apportioned under sections 104(b)(1), 104(b)(2), and 104(b)(6) 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.)

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.

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 no-

tice 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. Priority primary routes

(a) High traffic sections of highways on the Federal-aid primary system which connect to the Interstate System shall be selected by each State highway department, in consultation with appropriate local officials, subject to approval by the Secretary, for priority of improvement to supplement the service provided by the Interstate System by furnishing needed adequate traffic collector and distributor facilities. For the purpose of this section such highways shall hereafter in this section be referred to as ''priority primary routes''.

(b) The Federal share of any project on a priority primary route shall be that provided in section 120(a) of this title. All provisions of this title applicable to the Federal-aid primary system shall be applicable to the priority primary routes selected under this section.

(c) The initial selection of the priority primary routes and the estimated cost of completing such routes shall be reported to Congress on or before July 1, 1974.

(d) There is authorized to be appropriated out of the Highway Trust Fund to carry out this section not to exceed $100,000,000 for the fiscal year ending June 30, 1974, $200,000,000 for the fiscal year ending June 30, 1975, and $300,000,000 for the fiscal year ending June 30, 1976.

(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.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94–280 amended subsec. (b) generally, striking out apportionment provisions.

§ 148. Development of a national scenic and recreational highway

(a) As soon as possible after the date of enactment of this section, the Secretary shall establish criteria for the location and construction or reconstruction of the Great River Road by the ten States bordering the Mississippi River. Such criteria shall include requirements that—

(1) priority be given in the location of the Great River Road near or easily accessible to the larger population centers of the State[1] and further priority be given to the construction and improvement of the Great River Road in the proximity of the confluence of the Mississippi River and the Wisconsin River;

(2) the Great River Road be connected with other Federal-aid highways and preferably with the Interstate System;

[1] So in original. Probably should be ''States''.

(3) the Great River Road be marked with uniform identifying signs;

(4) effective control, as defined in section 131 of this title, of signs, displays, and devices will be provided along the Great River Road;

(5) the provisions of section 129(a) of this title shall not apply to any bridge or tunnel on the Great River Road and no fees shall be charged for the use of any facility constructed with assistance under this section, except for parks, recreational areas, and historical sites operated by State or local governments where admission fees may be charged to cover operational costs.

(b) For the purpose of this section, the term ''construction'' includes the acquisition of areas of historical, archeological, or scientific interest, necessary easements for scenic purposes, and the construction or reconstruction of roadside rest areas (including appropriate recreational facilities), scenic viewing areas, and other appropriate facilities as determined by the Secretary.

(c) Highways constructed or reconstructed pursuant to this section (except subsection (f)) shall be part of the Federal-aid system.

(d) Funds appropriated for each fiscal year pursuant to subsection (g) shall be apportioned among the ten States bordering the Mississippi River on the basis of their relative needs as determined by the Secretary for payments to carry out this section.

(e) The Federal share of the cost of any project for any construction or reconstruction pursuant to the preceding subsections of this section shall be that provided in section 120 of this title for the Federal-aid system on which such project is located, and if such project is not on such a system, such share shall be 75 per centum of such cost.

(f) The Secretary is authorized to consult with the heads of other Federal departments and agencies having jurisdiction over Federal lands open to the public in order to enter into appropriate arrangements for necessary construction or reconstruction of highways on such lands to carry out this section. Highways constructed or reconstructed by a State pursuant to this section which are not on a Federal-aid system, and highways constructed or reconstructed under this subsection, shall be subject to the criteria applicable to highways constructed or reconstructed pursuant to subsection (c) of this section. Funds authorized pursuant to subsection (g) shall be used to pay the entire cost of construction or reconstruction pursuant to the first sentence of this subsection.

(g) There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund, for construction or reconstruction of roads on a Federal-aid highway system, not to exceed $10,000,000 for the fiscal year ending June 30, 1974, $25,000,000 for the fiscal year ending June 30, 1975, and $25,000,000 for the fiscal year ending June 30, 1976, for allocations to the States pursuant to this section, and there is authorized to be appropriated to carry out this section out of any money in the Treasury not otherwise appropriated, not to exceed $10,000,000 for each of the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, for construction and reconstruction of roads not on a Federal-aid highway system.

(h) The Secretary is authorized to provide for the construction of such spur highways as he determines necessary to connect the Great River Road, by the most direct feasible routes, with existing bridges across the Mississippi for the purpose of providing persons traveling such road with access to significant scenic, historical, recreational, or archeological features on the opposite side of the Mississippi River from the Great River Road.

(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.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a), means Aug. 13, 1973, the date of approval of Pub. L. 93–87.

AMENDMENTS

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.

§ 149. Congestion mitigation and air quality improvement program

(a) ESTABLISHMENT.—The Secretary shall establish 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 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—

(1)(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 clauses (xii) and (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 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)); or

(B) in any case in which such information is not available, if the Secretary, after such con-

sultation, determines that the project or program is part of a program, method, or strategy described in such section;

(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; or

(4) to establish or operate a traffic monitoring, management, and control facility or program 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.

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 WITHOUT A NONATTAINMENT AREA.—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.

(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.

(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.)

REFERENCES IN TEXT

The Clean Air Act, referred to in subsecs. (b)(1)(A), (2) and (c), 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.

AMENDMENTS

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.

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.

CONGESTION PRICING PILOT PROGRAM

Section 1012(b) of Pub. L. 102–240, as amended by Pub. L. 104–59, title III, §325(e), Nov. 28, 1995, 109 Stat. 592, provided that:

''(1) The Secretary shall solicit the participation of State and local governments and public authorities for one or more congestion pricing pilot projects. The Secretary may enter into cooperative agreements with as many as 5 such State or local governments or public authorities to establish, maintain, and monitor congestion pricing projects.

''(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 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 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 a pilot program under this section [amending section 129 of this title and enacting provisions set out as a note under section 129 of this title], but not on more than 3 of such programs.

''(5) The Secretary shall monitor the effect of such projects 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) Of the sums made available to the Secretary pursuant to section 104(a) of title 23, United States Code, not to exceed $25,000,000 shall be made available each fiscal year to carry out the requirements of this subsection. Not more than $15,000,000 of such amounts shall be made available to carry out each pilot project under this section.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 117 of this title.

§ 150. Allocation of urban system funds

The funds apportioned to any State under paragraph (6) of subsection (b) of section 104 of this title that are attributable to urbanized areas of 200,000 population or more shall be made available for expenditure in such urbanized areas for projects in programs approved under subsection (d) of section 105 of this title in accordance with a fair and equitable formula developed by the State which formula has been approved by the Secretary. Such formula shall provide for fair and equitable treatment of incorporated municipalities of 200,000 or more population. Whenever such a formula has not been developed and approved for a State, the funds apportioned to any State under paragraph (6) of subsection (b) of section 104 of this title which are attributable to urbanized areas having a population of 200,000 or more shall be allocated among such urbanized areas within such State for projects in programs approved under subsection (d) of section 105 of this title in the ratio that the population within each such urbanized area bears to the population of all such urbanized areas, or parts thereof, within such State. In the expenditure of funds allocated under the preceding sentence, fair and equitable treatment shall be accorded incorporated municipalities of 200,000 or more population. Funds allocated to an urbanized area under the provisions of this section may, at the request of the Governor and upon approval of the appropriate local officials of the area and the Secretary, be transferred to the allocation of another such area in the State or to the State for use in any urban area.

(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.)

AMENDMENTS

1983—Pub. L. 97–424 inserted provision at end that funds allocated to an urbanized area under the provisions of this section may, at the request of the Governor and upon approval of the appropriate local officials of the area and the Secretary, be transferred to the allocation of another such area in the State or to the State for use in any urban area.

§ 151. National bridge inspection program

(a) NATIONAL BRIDGE INSPECTION STANDARDS.—The Secretary, in consultation with the State highway 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 highway 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 307(a), and section 144 of this title.

(Added Pub. L. 100–17, title I, § 125(a), Apr. 2, 1987, 101 Stat. 166.)

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.

§ 152. Hazard elimination program

(a) 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 and pedestrians, assign priorities for the correction

of such locations, sections, and elements, and establish and implement a schedule of projects for their improvement.

(b) The Secretary may approve as a project under this section any highway safety improvement project.

(c) Funds authorized to carry out this section shall be available for expenditure on any public road (other than a highway on the Interstate System).

(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 apportioned to the States as provided in section 402(c) of this title. Such funds shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under section 104(b)(1), 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 highway 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 highway 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 highway 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 Transportation 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.)

AMENDMENTS

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).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 104, 133, 157, 307, 409 of this title.

§ 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 im-

plement 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.

(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''.

[1] See References in Text note below.

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.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 31104.

[§ 154. Repealed. Pub. L. 104–59, title II, § 205(d)(1)(B), Nov. 28, 1995, 109 Stat. 577]

Section, 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.

EFFECTIVE DATE OF REPEAL

Repeal applicable to State on 10th day following Nov. 28, 1995, except that if legislature of State is not in session on such date and chief executive officer of State declares, before such 10th day, that legislature is not in session and that State prefers applicability date that is after date on which legislature will convene, repeal applicable to State on 60th day following date on which legislature next convenes, see section 205(d)(3) of Pub. L. 104–59, set out as an Effective Date of 1995 Amendment note under section 141 of this title.

STUDY OF COSTS AND BENEFITS TO STATES FROM REPEAL OF MAXIMUM SPEED LIMIT

Pub. L. 104–59, title III, § 347, Nov. 28, 1995, 109 Stat. 616, provided that: ''Not later than September 30, 1997, the Secretary, in cooperation with any State which raises any speed limit in such State to a level above the

level permitted under section 154 of title 23, United States Code, as such section was in effect on September 15, 1995, shall prepare and submit to Congress a study of—

''(1) the costs to such State of deaths and injuries resulting from motor vehicle crashes; and

''(2) the benefits associated with the repeal of the national maximum speed limit.''

§ 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 Secretary 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. Income from airspace rights-of-way

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.

(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.)

REFERENCES IN TEXT

The date of the enactment of the Federal-Aid Highway Act of 1987, referred to in text, is the date of enactment of title I of Pub. L. 100–17, which was approved Apr. 2, 1987.

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

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. Minimum allocation

(a) GENERAL RULES.—

(1) FISCAL YEARS 1984–1987.—In the fiscal year ending September 30, 1983, as soon as practicable after the date of enactment of this Act, and in each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986, on October 1, the Secretary of Transportation shall allocate among the States, as defined in section 101 of this title amounts sufficient to insure that a State's percentage of the total apportionments in each such fiscal year of Interstate highway substitute, primary, secondary, Interstate, urban, bridge replacement and rehabilitation, hazard elimination, and rail-highway crossings funds under sections 103(e)(4), 104(b), 144, and 152 of this title and section 203 of the Highway Safety Act of 1973, as amended, shall not be less than 85 per centum of the percentage of estimated tax payments attributable to highway users in that State paid into the Highway Trust Fund, other than the Mass Transit Account, in the latest fiscal year for which data is available.

(2) FISCAL YEARS 1987 AND 1988.—In fiscal years 1987 and 1988, on October 1, or as soon as possible thereafter, the Secretary shall allocate among the States amounts sufficient to ensure that a State's percentage of the total apportionments in each such fiscal year and allocations for the prior fiscal year for Federal-aid highway programs (except allocations for emergency relief in accordance with section 125 of this title, the Interstate construction discretionary program in accordance with section 118(b)(2)[1] of this title, forest highways, Indian reservation roads, and parkways and park roads in accordance with section 202 of this title, highway related safety grants authorized by section 402 of this title, nonconstruction safety grants authorized by sections 402, 406, and 408 of this title, and Bureau of Motor Carrier Safety Grants authorized by section 31104 of title 49) shall not be less than 85 percent of the percentage of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund, other than the Mass Transit Account, in the latest fiscal year for which data are available.

(3) FISCAL YEARS 1989–1991.—

(A) GENERAL RULE.—In fiscal year[2] 1989, 1990, and 1991 on October 1, or as soon as possible thereafter, the Secretary shall allocate among the States amounts sufficient to ensure that a State's percentage of the total apportionments in each such fiscal year and allocations for the prior fiscal year for Federal-aid highway programs (except allocations for forest highways, Indian reservation roads, and parkways and park roads in accordance with section 202 of this title, highway related safety grants authorized by section 402 of this title, nonconstruction safety grants authorized by sections 402, 406, and 408 of this title, and Bureau of Motor Carrier Safety Grants authorized by section 31104 of title 49) shall not be less than 85 percent of the percentage of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund, other than the Mass Transit Account, in the latest fiscal year for which data are available.

(B) EXCEPTION FOR FISCAL YEAR 1989.—Notwithstanding subparagraph (A), the amount allocated to the State of California under this paragraph in fiscal year 1989 shall be the amount which would be allocated to such State under this subsection if paragraph (2) were in effect for such fiscal year.

(4) THEREAFTER.—In fiscal year 1992 and each fiscal year thereafter on October 1, or as soon as possible thereafter, the Secretary shall allocate among the States amounts sufficient to ensure that a State's percentage of the total apportionments in each such fiscal year and allocations for the prior fiscal year for Interstate construction, Interstate maintenance, Interstate highway substitute, National Highway System, surface transportation program, bridge program, scenic byways, and grants for safety belts and motorcycle helmets shall not be less than 90 percent of the percentage of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund, other than the Mass Transit Account, in the latest fiscal year for which data are available.

(b) Amounts allocated pursuant to subsection (a) of this section shall be available for obligation when allocated for the year authorized plus the three succeeding fiscal years, shall be subject to the provisions of this title 23 and may be obligated for Interstate highway substitute, National Highway, surface transportation program, Interstate, congestion mitigation and air quality improvement program, bridge, hazard elimination, and rail-highway crossings projects. ½ of the amounts allocated pursuant to subsection (a) after September 30, 1991, shall be subject to section 133(d)(3) of this title. Obligation limitations for Federal-aid highways and highway safety construction programs established by this Act or any subsequent Act shall not apply to obligations made under this section, except where the provision of law establishing such limitation specifically amends or limits the applicability of this sentence. Sums allocated pursuant to this section shall not be considered to be sums allocated for purposes of section 104(b) of the Highway Improvement Act of 1982 and section 4102(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985 and section 105(c) of the Federal-Aid Highway Act of 1987 and section 1002(c) of the Intermodal Surface Transportation Efficiency Act of 1991.

(c) LIMITATION ON PLANNING EXPENDITURES.—One-half of 1 percent of amounts allocated to each State under this section in any fiscal year may be available for expenditure for the purpose of carrying out the requirements of section 134 of this title (relating to transportation planning). 1½ percent of the amounts allocated to each State under this section in any fiscal year may be available for expenditure for the purpose of carrying out activities referred to in subsection (c) of section 307 of this title (relating to transportation planning and research).

(d) TREATMENT OF WITHHELD APPORTIONMENTS.—For purposes of subsection (a), any

[1] See References in Text note below.

[2] So in original. Probably should be ''years''.

funds which, but for section 154(f)[3] or 158(a) of this title or any other provision of law under which Federal-aid highway funds are withheld from apportionment, would be apportioned to a State in a fiscal year under a section referred to in subsection (a) shall be treated as being apportioned in such year.

(e) In order to carry out this section there is authorized to be appropriated out of the Highway Trust Fund, other than the Mass Transit Account, such sums as may be necessary for each of the fiscal years ending on or after September 30, 1983.

(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.)

REFERENCES IN TEXT

The date of enactment of this Act, referred to in subsec. (a)(1), is the date of enactment of Pub. L. 97–424, which was approved Jan. 6, 1983.

Section 203 of the Highway Safety Act of 1973, as amended, referred to in subsec. (a)(1), is section 203 of Pub. L. 93–87, which is set out as a note under section 130 of this title.

Section 118(b) of this title, referred to in subsec. (a)(2), was struck out and a new subsec. (b) was added by Pub. L. 102–240, title I, § 1020(a), Dec. 18, 1991, 105 Stat. 1948. Provisions formerly contained in subsec. (b)(2) of section 118 appear in subsec. (b)(1).

This Act, referred to in subsec. (b), probably means Pub. L. 97–424, Jan. 6, 1983, 96 Stat. 2097, known as the Surface Transportation Assistance Act of 1982. For complete classification of this Act to the Code, see Short Title of 1983 Amendment note set out under section 101 of this title and Tables.

Section 104(b) of the Highway Improvement Act of 1982, referred to in subsec. (b), is section 104(b) of Pub. L. 97–424, which is set out as a note under section 104 of this title.

Section 4102(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985, referred to in subsec. (b), is section 4102(c) of Pub. L. 99–272, set out as a note under section 104 of this title.

Section 105(c) of the Federal-Aid Highway Act of 1987, referred to in subsec. (b), is section 105(c) of Pub. L. 100–17, which is set out as a note under section 104 of this title.

Section 1002(c) of the Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (b), is section 1002(c) of Pub. L. 102–240, which is set out as a note under section 104 of this title.

Section 154 of this title, referred to in subsec. (d), was repealed by Pub. L. 104–59, title II, § 205(d)(1)(B), Nov. 28, 1995, 109 Stat. 577.

AMENDMENTS

1994—Subsec. (a)(2), (3)(A). Pub. L. 103–272 substituted ''section 31104 of title 49'' for ''section 404 of the Surface Transportation Assistance Act of 1982''.

1991—Subsec. (a)(3). Pub. L. 102–240, § 1013(a)(1), substituted ''Fiscal years 1989–1991'' for ''Thereafter'' in heading.

Subsec. (a)(3)(A). Pub. L. 102–240, § 1013(a)(2), substituted '', 1990, and 1991'' for ''and each fiscal year thereafter,''.

Subsec. (a)(4). Pub. L. 102–240, § 1013(a)(3), added par. (4).

Subsec. (b). Pub. L. 102–240, § 1013(b), substituted ''National Highway, surface transportation program'' for ''primary, secondary'', substituted ''congestion mitigation and air quality improvement program'' for ''urban'', struck out ''replacement and rehabilitation'' after ''bridge'', and inserted after first sentence ''½ of the amounts allocated pursuant to subsection (a) after September 30, 1991, shall be subject to section 133(d)(3) of this title.''

Pub. L. 102–240, § 1002(h), inserted before period at end ''and section 1002(c) of the Intermodal Surface Transportation Efficiency Act of 1991''.

1987—Subsec. (a). Pub. L. 100–17, § 124(b), (e), inserted heading, designated existing provisions as par. (1) and inserted heading, added pars. (2) and (3), and indented and aligned par. (1) with pars. (2) and (3).

Subsec. (b). Pub. L. 100–17, § 105(h), inserted reference to section 105(c) of the Federal-Aid Highway Act of 1987.

Subsecs. (c), (d). Pub. L. 100–17, § 124(a), added subsecs. (c) and (d). Former subsec. (c) redesignated (e).

Subsec. (e). Pub. L. 100–17, § 124(a), (d), redesignated former subsec. (c) as (e) and substituted ''on or after September 30, 1983'' for ''September 30, 1983, September 30, 1984, September 30, 1985, and September 30, 1986''.

1986—Subsec. (b). Pub. L. 99–272 inserted ''and section 4102(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985.''

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.

DONOR STATE BONUS AMOUNTS

Section 1013(c) of Pub. L. 102–240 provided that:

''(1) FUNDING.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the payment of donor State bonus amounts the following amounts for the following fiscal years:

''(A) For fiscal year 1992 $429,000,000.

''(B) For fiscal year 1993 $514,000,000.

''(C) For fiscal year 1994 $514,000,000.

''(D) For fiscal year 1995 $514,000,000.

''(E) For fiscal year 1996 $514,000,000.

''(F) For fiscal year 1997 $515,000,000.

''(2) APPORTIONMENT.—

''(A) FORMULA.—The bonus apportionments which are provided under this subsection for a fiscal year shall be apportioned in such a way as to bring each successive State, or States, with the lowest dollar return on dollar projected to be contributed into the Highway Trust Fund for such fiscal year, up to the highest common return on contributed dollar that can be funded with the annual authorizations provided under this subsection.

''(B) APPLICABILITY OF CHAPTER 1 OF TITLE 23.—Funds apportioned under this subsection shall be available for obligation in the same manner and for the same purposes as if such funds were apportioned for the surface transportation program under chapter 1 of title 23, United States Code, except that such funds shall remain available until expended. One-half of the amounts apportioned under this subsection shall be subject to section 133(d)(3) of title 23, United States Code, as added by this Act.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 104 of this title.

§ 158. National minimum drinking age

(a) WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—

(1) FIRST YEAR.—The Secretary shall withhold 5 per centum of the amount required to

[3] See References in Text note below.

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.

(2) AFTER THE FIRST YEAR.—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)(2), 104(b)(5), and 104(b)(6) 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.

(3) 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 paragraphs (1) and (2) of this subsection in each fiscal year in which such law is in effect.

(b) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—

(A) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 1988.—Any funds withheld under this section from apportionment to any State on or before September 30, 1988, shall remain available for apportionment to such State as follows:

(i) If such funds would have been apportioned under section 104(b)(5)(A) of this title 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) of this title 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 section 104(b)(1), 104(b)(2), or 104(b)(6) of this title 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, 1988.—No funds withheld under this section from apportionment to any State after September 30, 1988, 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 this section from apportionment are to remain available for apportionment to a State under paragraph (1)(A), the State makes effective a law which is in compliance with subsection (a), the Secretary shall on the day following the effective date of such law apportion to such State the withheld funds remaining available for apportionment to such 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 apportioned under section 104(b)(5)(A) of this title shall remain available until the end of the fiscal year succeeding the fiscal year in which such funds are so apportioned.

(B) Funds apportioned under section 104(b)(1), 104(b)(2), 104(b)(5)(B), or 104(b)(6) of this title 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) of this title, shall lapse and be made available by the Secretary for projects in accordance with section 118(b) of this title.

(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under this section from apportionment are available for apportionment to a State under paragraph (1), the State has not made effective a law which is in compliance with subsection (a), such funds shall lapse or, in the case of funds withheld from apportionment under section 104(b)(5) of this title, such funds shall lapse and be made available by the Secretary for projects in accordance with section 118(b) of this title.

(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.)

REFERENCES IN TEXT

The date of the enactment of this paragraph, referred to in subsec. (a)(3), 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

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''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 157, 410 of this title; title 49 section 31301.

§ 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) 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) 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) 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), (3), or (5) 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) 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) 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) 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), 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.)

REFERENCES IN TEXT

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

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

States	Original cost in millions	Reimbursement percentage	Reimbursable amount in millions
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).
(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.)

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 (5)(B) 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 (5)(B) 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 requirement 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.)

CHAPTER 2—OTHER HIGHWAYS

Sec.
201. Authorizations.