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23 USC CHAPTER 1 - FEDERAL-AID HIGHWAYS

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-EXPCITE-

TITLE 23 - HIGHWAYS

CHAPTER 1 - FEDERAL-AID HIGHWAYS

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CHAPTER 1 - FEDERAL-AID HIGHWAYS

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#### AMENDMENTS

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

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

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

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

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

to item 163.

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

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

1995 - Pub. L. 104-59, title II, Sec. 205(d)(2), title III, Secs. 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, Secs. 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, Sec. 333(b), (c), Oct. 28, 1991, 105 Stat. 947, added item 159 and repealed Pub. L. 101-516, Sec. 333(b), which added former item 159. See 1990 Amendment note below.

1990 - Pub. L. 101-516, title III, Sec. 333(b), Nov. 5, 1990, 104 Stat. 2186, which added item 159, was repealed by Pub. L. 102-143, title III, Sec. 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, Secs. 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, Sec. 6(b), July 17, 1984, 98 Stat. 437, added item 158.

1983 - Pub. L. 97-424, title I, Sec. 119(c), Jan. 6, 1983, 96 Stat. 2111, substituted "Nondiscrimination" for "Equal employment opportunity" in item 140.

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

1978 - Pub. L. 95-599, Secs. 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, Secs. 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 111 "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, Secs. 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, Secs. 116(b), 121(b), 123(b), 125(b), 126(b), 129(c), 142(b), 157(b), title II, Secs. 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, Secs. 111(b), 127(b), 134(b), title II, Sec. 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, Secs. 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, Secs. 8(c)(2), 15(b), Sept. 13, 1966, 80 Stat. 769, 771, added items 137 and 138.

Pub. L. 89-564, title I, Sec. 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, Sec. 102, title II, Sec. 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, Sec. 4(b), Aug. 28, 1965, 79 Stat. 579, added item 135.

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

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

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TITLE 23 - HIGHWAYS

CHAPTER 1 - FEDERAL-AID HIGHWAYS

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Sec. 101. Definitions and declaration of policy

-STATUTE-

(a) Definitions. - In this title, the following definitions apply:

(1) Apportionment. - The term "apportionment" includes unexpended apportionments made under prior authorization laws.

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

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

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

(B) resurfacing, restoration, and rehabilitation;

(C) acquisition of rights-of-way;

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

(E) elimination of hazards of railway grade crossings;

(F) elimination of roadside obstacles;

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

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

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

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

(6) Federal-aid system. - The term "Federal-aid system" means any of the Federal-aid highway systems described in section 103.

(7) Federal lands highway. - The term "Federal lands highway" means a forest highway, public lands highway, park road, parkway, refuge road, and Indian reservation road that is a public road.

(8) Forest development roads and trails. - The term "forest development roads and trails" means forest roads and trails under the jurisdiction of the Forest Service.

(9) Forest highway. - The term "forest highway" means a forest road under the jurisdiction of, and maintained by, a public authority and open to public travel.

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

(11) Highway. - The term "highway" includes -

(A) a road, street, and parkway;

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

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

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

(13) Interstate System. - The term "Interstate System" means the Dwight D. Eisenhower National System of Interstate and Defense Highways described in section 103(c).

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

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

(16) National Highway System. - The term "National Highway System" means the Federal-aid highway system described in section 103(b).

(17) Operating costs for traffic monitoring, management, and control. - The term "operating costs for traffic monitoring, management, and control" includes labor costs, administrative costs, costs of utilities and rent, and other costs associated with the continuous operation of traffic control, such as integrated traffic control systems, incident management programs, and traffic control centers.

(18) Operational improvement. - The term "operational improvement" -

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

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

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

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

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

(22) Project agreement. - The term "project agreement" means the formal instrument to be executed by the State transportation department and the Secretary as required by section 106.

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

(24) Public lands development roads and trails. - The term "public lands development roads and trails" means those roads and trails that the Secretary of the Interior determines are of primary importance for the development, protection, administration, and utilization of public lands and resources under the control of the Secretary of the Interior.

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

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

(27) Public road. - The term "public road" means any road or street under the jurisdiction of and maintained by a public authority and open to public travel.

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

(29) Rural areas. - The term "rural areas" means all areas of a State not included in urban areas.

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

(31) Secretary. - The term "Secretary" means Secretary of Transportation.

(32) State. - The term "State" means any of the 50 States, the District of Columbia, or Puerto Rico.

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

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

(35) Transportation enhancement activity. - The term "transportation enhancement activity" means, with respect to any project or the area to be served by the project, any of the following activities as the activities relate to surface transportation:

(A) Provision of facilities for pedestrians and bicycles.

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

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

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

(E) Landscaping and other scenic beautification.

(F) Historic preservation.

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

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

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

(J) Archaeological planning and research.

(K) Environmental mitigation -

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

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

(L) Establishment of transportation museums.

(36) Urban area. - The term "urban area" means an urbanized area or, in the case of an urbanized area encompassing more than one State, that part of the urbanized area in each such State, or urban place as designated by the Bureau of the Census having a population of 5,000 or more and not within any urbanized area,



within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall encompass, at a minimum, the entire urban place designated by the Bureau of the Census, except in the case of cities in the State of Maine and in the State of New Hampshire.

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

(38) Advanced truck stop electrification system. - The term "advanced truck stop electrification system" means a system that delivers heat, air conditioning, electricity, or communications to a heavy duty vehicle.

(39) Transportation systems management and operations. -

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

(B) Inclusions. - The term "transportation systems management and operations" includes -

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

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

(b) Declaration of Policy. -

(1) Acceleration of construction of federal-aid highway systems. - Congress declares that it is in the national interest to accelerate the construction of Federal-aid highway systems, including the Dwight D. Eisenhower National System of Interstate and Defense, (!2) because many of the highways (or portions of the highways) are inadequate to meet the needs of local and interstate commerce for the national and civil defense.

(2) Completion of interstate system. - Congress declares that the prompt and early completion of the Dwight D. Eisenhower National System of Interstate and Defense Highways (referred to in this section as the "Interstate System"), so named because of its primary importance to the national defense, is essential to the national interest. It is the intent of Congress that the Interstate System be completed as nearly as practicable over the period of availability of the forty years' appropriations authorized for the purpose of expediting its construction, reconstruction, or improvement, inclusive of necessary tunnels and bridges, through the fiscal year ending September 30, 1996, under section 108(b) of the Federal-Aid Highway Act of 1956 (70

Stat. 374), and that the entire system in all States be brought to simultaneous completion. Insofar as possible in consonance with this objective, existing highways located on an interstate route shall be used to the extent that such use is practicable, suitable, and feasible, it being the intent that local needs, to the extent practicable, suitable, and feasible, shall be given equal consideration with the needs of interstate commerce.

(3) Transportation needs of 21st century. - Congress declares that -

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

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

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

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

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

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

(iii) travel movements essential for national security;

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

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

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

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

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

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

highways or highway planning, research, or development, or as otherwise specifically authorized to be appropriated from the Highway Trust Fund by Federal-aid highway legislation.

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

-SOURCE-

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

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REFERENCES IN TEXT

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

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AMENDMENTS

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

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

Subsec. (a)(38). Pub. L. 109-59, Sec. 1122(b), added par. (38).

Subsec. (b). Pub. L. 109-59, Sec. 1909(a), inserted subsec. heading, substituted heading and text of par. (1) for first undesignated par. relating to declaration that it was in the national interest to accelerate the construction of the Federal-aid highway systems, designated second undesignated par. as par. (2), inserted heading, and substituted "Congress declares that the prompt and early completion of the Dwight D. Eisenhower National

System of Interstate and Defense Highways (referred to in this section as the 'Interstate System'), so named because of its primary importance to the national defense, is essential to the national interest" for "It is hereby declared that the prompt and early completion of The Dwight D. Eisenhower System of Interstate and Defense Highways, so named because of its primary importance to the national defense and hereafter referred to as the 'Interstate System', is essential to the national interest and is one of the most important objectives of this Act", and substituted heading and text of par. (3) for third undesignated par. relating to the national policy that increased emphasis be placed on the construction and reconstruction of the other Federal-aid systems.

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

1995 - Subsec. (a). Pub. L. 104-59, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 1005(e), in definition of "Interstate System", inserted "Dwight D. Eisenhower" before "National".

Pub. L. 102-240, Sec. 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, Sec. 1005(f), inserted provision defining "operational improvement".

Pub. L. 102-240, Sec. 1007(c), inserted provision defining "transportation enhancement activities".

Subsec. (b). Pub. L. 102-240, Sec. 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, Sec. 108, in definition of "construction", inserted "elimination of roadside obstacles," after "grade crossings,".

Pub. L. 100-17, Sec. 133(b)(2), substituted definition of "forest road or trail" for "forest or trail".

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

Pub. L. 100-17, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 126(c)(3), inserted provision defining "Federal lands highways".

Pub. L. 97-424, Sec. 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, Sec. 106(a), in definition of "construction" inserted provision relating to capital improvements.

Pub. L. 95-599, Sec. 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, Sec. 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, Sec. 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, Sec. 106(b)(4), inserted definition of "highway safety improvement project".

1976 - Subsec. (a). Pub. L. 94-280, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 152(1), in definition of "Secretary", substituted "Secretary of Transportation" for "Secretary of Commerce".

Pub. L. 93-87, Sec. 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, Sec. 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, Secs. 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, Sec. 108, added subsec. (e).

1970 - Subsec. (a). Pub. L. 91-605, Secs. 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, as 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, Sec. 104(a), substituted "twenty years" for "eighteen years" and "June 30, 1976" for "June 30, 1974".

Subsec. (c). Pub. L. 91-605, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 15, added subsecs. (c) and (d).

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

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

1962 - Subsec. (a). Pub. L. 87-866 inserted definition of "public lands development roads and trails".

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

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

#### EFFECTIVE DATE OF 2008 AMENDMENT

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

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

"(b) Exception. -

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

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

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

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

#### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-206, title IX, Sec. 9016, July 22, 1998, 112 Stat. 868, provided that: "This title [see Tables for classification] and the amendments made by this title shall take effect simultaneously with the enactment of the Transportation Equity Act for the 21st Century [Pub. L. 105-178]. For purposes of all Federal laws, the amendments made by this title shall be treated as being included in



the Transportation Equity Act for the 21st Century at the time of the enactment of such Act [June 9, 1998], and the provisions of such Act (including the amendments made by such Act) (as in effect on the day before the date of enactment of this Act [July 22, 1998]) that are amended by this title shall be treated as not being enacted."

#### EFFECTIVE DATE OF 1991 AMENDMENT

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

#### EFFECTIVE DATE OF 1970 AMENDMENT

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

#### EFFECTIVE DATE OF 1968 AMENDMENT

Section 37 of Pub. L. 90-495, as amended by Pub. L. 91-605, title I, Sec. 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 2010 AMENDMENT

Pub. L. 111-322, title II, Sec. 2001(a), Dec. 22, 2010, 124 Stat. 3522, provided that: "This title [amending sections 327 and 510 of this title, section 777c of Title 16, Conservation, sections 9503 and 9504 of Title 26, Internal Revenue Code, and sections 5305, 5307, 5309, 5311, 5337, 5338, 31104, and 31144 of Title 49, Transportation, enacting provisions set out as a note under section 9503 of Title 26, and amending provisions set out as notes under section 901 of Title 2, The Congress, and sections 5309, 5310, 5338, 14710, 31100, 31301, and 31309 of Title 49] may be cited as the 'Surface Transportation Extension Act of 2010, Part II'."

Pub. L. 111-147, title IV, Sec. 401, Mar. 18, 2010, 124 Stat. 78, provided that: "This title [amending sections 405 and 410 of this title, section 777c of Title 16, Conservation, sections 9502 to 9504 of Title 26, Internal Revenue Code, and sections 5305, 5307, 5309, 5311, 5337, 5338, 31104, and 31144 of Title 49, Transportation, enacting provisions set out as notes under this section and sections 9502 and 9503 of Title 26, and amending provisions set out as notes under sections 402, 403, and 405 of this title, section 901 of Title 2, The Congress, and sections 5309, 5310, 5338, 14710, 31100, 31301, and 31309 of Title 49] may be cited as the 'Surface Transportation Extension Act of 2010'."

#### SHORT TITLE OF 2008 AMENDMENT

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

#### SHORT TITLE OF 2005 AMENDMENTS

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

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

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

Pub. L. 109-37, Sec. 1, July 22, 2005, 119 Stat. 394, provided that: "This Act [amending sections 144, 157, 163, and 188 of this title, section 777c of Title 16, Conservation, sections 9503 and 9504 of Title 26, Internal Revenue Code, section 13106 of Title 46, Shipping, and sections 5307, 5309, 5338, 31104, and 31107 of Title 49, Transportation, enacting provisions set out as a note under section 9503 of Title 26, and amending provisions set out as notes

under this section, sections 104, 322, and 402 of this title, and sections 5307, 5309, 5310, and 5338 of Title 49] may be cited as the 'Surface Transportation Extension Act of 2005, Part IV'."

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

Pub. L. 109-20, Sec. 1, July 1, 2005, 119 Stat. 346, provided that: "This Act [amending sections 144, 157, 163, and 188 of this title, section 777c of Title 16, Conservation, sections 9503 and 9504 of Title 26, Internal Revenue Code, section 13106 of Title 46, Shipping, and sections 5307, 5309, 5338, 31104, and 31107 of Title 49, Transportation, enacting provisions set out as a note under section 9503 of Title 26, and amending provisions set out as notes under this section, sections 104, 322, and 402 of this title, and sections 5307, 5309, 5310, and 5338 of Title 49] may be cited as the 'Surface Transportation Extension Act of 2005, Part II'."

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

#### SHORT TITLE OF 2004 AMENDMENTS

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

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

IV'."

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

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

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

#### SHORT TITLE OF 2003 AMENDMENT

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

#### SHORT TITLE OF 1998 AMENDMENTS

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

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

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

#### SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105-130, Sec. 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 4601-11 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 4601-11 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, Sec. 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 4601-11 of Title 16, Conservation, sections 39, 4041, 4061, 4071, 4081, 4481, 4482, 6156, 6412, 6421, 6427, 7210, 7603, 7604, 7605, 7609, and 7610 of Title 26, Internal Revenue Code, section 201 of former Title 40, Appendix, Public Buildings, Property, and Works, sections 303, 1602, 1603, 1604, 1607b, 1607c, 1608, 1611, 1612, and 1613 of former Title 49, repealing section 153 of this title and sections 1607, 1607a, and 1614 of former Title 49, and enacting provisions set out as notes under this section, sections 103, 104, 109, 111, 120, 122, 124, 129, 130, 134, 135, 141, 142, 144, 146, 215, 217, 307, 320, 401, 402, and 403 of this title, section 6427 of Title 26, section 201 of former Title 40, Appendix, section 5904 of Title 42, The Public Health and Welfare, section 883 of Title 46, Appendix, Shipping, and sections 1601, 1602, 1604, 1605, 1612, and 1653 of former Title 49] may be cited as the 'Surface Transportation Assistance Act of 1978'."

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

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

#### SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94-280, title I, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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."

-TRANS-

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

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

TRANSFER OF FUNCTIONS

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

-MISC2-

PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE

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

"(a) Findings. - Congress finds the following:

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

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

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

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

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

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

"(b) Establishment of Program. - The Secretary [of Transportation] shall establish a program to provide grants to States for projects of national and regional significance.

"(c) Definitions. - In this section, the following definitions apply:

"(1) Eligible project costs. - The term 'eligible project costs' means the costs of -

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

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

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

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

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

"(1) \$500,000,000; or

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

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

"(f) Competitive Grant Selection and Criteria for Grants. -

"(1) In general. - The Secretary [of Transportation] shall -

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

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

"(C) award grants on a competitive basis.

"(2) Criteria for grants. - The Secretary may approve a grant under this section for a project only if the Secretary determines that the project -

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

"(B) is justified based on the ability of the project -

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

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

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

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

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

infrastructure facility; and

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

"(3) Selection considerations. - In selecting a project under this section, the Secretary shall consider the extent to which the project -

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

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

"(C) helps maintain or protect the environment.

"(4) Preliminary engineering. - In evaluating a project under paragraph (2)(A), the Secretary shall analyze and consider the results of preliminary engineering for the project.

"(5) Non-federal financial commitment. -

"(A) Evaluation of project. - In evaluating a project under paragraph (2)(C), the Secretary shall require that -

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

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

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

"(i) existing financial commitments;

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

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

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

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

"(7) Project evaluation and rating. -

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

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

"(g) Letters of Intent and Full Funding Grant Agreements. -

"(1) Letter of intent. -

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

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

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

"(D) Obligation or commitment. - An obligation or administrative commitment may be made only when contract authority is allocated to a project.

"(2) Full funding grant agreement. -

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

"(B) Terms. - If the Secretary makes a full funding grant agreement with an applicant, the agreement shall -

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

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

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

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

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

"(3) Amounts. - The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent and full funding grant agreements may be not more than the greater of the

amount authorized to carry out this section or an amount equivalent to the last 2 fiscal years of funding authorized to carry out this section less an amount the Secretary reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters and contingent commitments included in full funding grant agreements may be not more than a limitation specified in law.

"(h) Grant Requirements. -

"(1) In general. - A grant for a project under this section shall be subject to all of the requirements of title 23, United States Code.

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

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

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

"(k) Reports. -

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

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

"(l) Applicability of Title 23. - Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended and the Federal share of the cost of a project under this section shall be as provided in this section.

"(m) Designated Projects. - [Omitted.]"

#### NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAM

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

"(a) In General. - The Secretary [of Transportation] shall

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

"(b) Selection Process. -

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

"(2) Selection factors. - In making allocations under this section, the Secretary shall consider the following factors:

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

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

"(C) The extent to which commercial vehicle traffic in the corridor -

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

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

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

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

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

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

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

"(i) use of innovative financing;

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

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

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

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

"(e) Designated Projects. - [Omitted.]"

DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM

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

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

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

"(2) provide for transportation project development;

"(3) facilitate transportation decisionmaking; and

"(4) support transportation construction.

"(b) Eligible Recipients. - A State transportation department or metropolitan planning organization in a Delta Region State may receive and administer funds provided under the program.

"(c) Eligible Activities. - The Secretary [of Transportation] shall make allocations under the program for multistate highway planning, development, and construction projects.

"(d) Other Provisions Regarding Eligibility. - All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135 of title 23, United States Code.

"(e) Selection Criteria. - The Secretary [of Transportation] shall select projects to be carried out under the program based on -

"(1) whether the project is located -

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

"(B) on a Federal-aid highway;

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

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

"(f) Program Priorities. - In administering the program, the Secretary [of Transportation] shall -

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

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

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

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

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

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

"(h) Funding. -

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

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



MOTORCYCLIST ADVISORY COUNCIL

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

"(a) In General. - The Secretary [of Transportation], acting through the Administrator of the Federal Highway Administration, in consultation with the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, shall appoint a Motorcyclist Advisory Council to coordinate with and advise the Administrator on infrastructure issues of concern to motorcyclists, including -

"(1) barrier design;

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

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

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

"(1) at least -

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

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

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

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

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

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

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

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

NATIONAL CORRIDOR PLANNING AND DEVELOPMENT PROGRAM

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

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

"(b) Eligibility of Corridors. - The Secretary may make allocations under this section with respect to -

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

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

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

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

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

"(B) the extent to which commercial vehicle traffic in each

State -

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

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

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

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

"(E) the extent of leveraging of Federal funds provided under this subsection, including -

"(i) use of innovative financing;

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

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

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

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

"(c) Purposes. - Allocations may be made under this section for 1 or more of the following purposes:

"(1) Feasibility studies.

"(2) Comprehensive corridor planning and design activities.

"(3) Location and routing studies.

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

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

"(A) environmental review; and

"(B) construction.

"(d) Corridor Development and Management Plan. - A State or metropolitan planning organization receiving an allocation under this section shall develop, and submit to the Secretary for review, a development and management plan for the corridor or a usable component thereof with respect to which the allocation is being made. Such plan shall include, at a minimum, the following elements:

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

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

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

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

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

In the case of a multistate corridor, the Secretary shall encourage

all States having jurisdiction over any portion of such corridor to participate in the development of such plan.

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

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

"(g) State Defined. - In this section, the term 'State' has the meaning such term has under section 101 of title 23, United States Code."

#### COORDINATED BORDER INFRASTRUCTURE PROGRAM

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

"(a) General Authority. - The Secretary [of Transportation] shall implement a coordinated border infrastructure program under which the Secretary shall distribute funds to border States to improve the safe movement of motor vehicles at or across the border between the United States and Canada and the border between the United States and Mexico.

"(b) Eligible Uses. - Subject to subsection (d), a State may use funds apportioned under this section only for -

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

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

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

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

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

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

"(1) 20 percent in the ratio that -

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

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

"(2) 30 percent in the ratio that -

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

"(B) the total number of incoming personal motor vehicles and

incoming buses that pass through such ports of entry within the boundaries of all the border States, as determined by the Secretary.

"(3) 25 percent in the ratio that -

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

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

"(4) 25 percent of the ratio that -

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

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

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

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

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

"(e) Transfer of Funds to the General Services Administration. -

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

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

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

"(2) Non-federal share. -

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

"(B) No augmentation of appropriations. - Funds provided by a border State under subparagraph (A) -

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

"(ii) shall be -

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

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

States Code.

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

"(4) Limitation on transfer of funds. - No State may transfer to the General Services Administration under this subsection an amount that is more than the lesser of -

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

"(B) \$5,000,000.

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

"(g) Definitions. - In this section, the following definitions apply:

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

"(2) Border state. - The term 'border State' means any State that has an international land border with Canada or Mexico.

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

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

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

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

"(a) General Authority. - The Secretary shall establish and implement a coordinated border infrastructure program under which the Secretary may make allocations to border States and metropolitan planning organizations for areas within the boundaries of 1 or more border States for projects to improve the safe movement of people and goods at or across the border between the United States and Canada and the border between the United States and Mexico.

"(b) Eligible Uses. - Allocations to States and metropolitan planning organizations under this section may only be used in a border region for -

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

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

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

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

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

"(6) activities of Federal inspection agencies.

"(c) Selection Criteria. - The Secretary shall make allocations under this section on the basis of -

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

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

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

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

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

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

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

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

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

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

"(d) Construction of Transportation Infrastructure for Law Enforcement Purposes. - At the request of the Administrator of General Services, in consultation with the Attorney General, the Secretary may transfer, during the period of fiscal years 1998 through 2001, not more than \$10,000,000 of the amounts made available by section 1101 [set out in part as a note below] to carry out this section and section 1118 [set out above] to the Administrator of General Services for the construction of transportation infrastructure necessary for law enforcement in border States.

"(e) Definitions. - In this section, the following definitions apply:

"(1) Border region. - The term 'border region' means the portion of a border State in the vicinity of an international border with Canada or Mexico.

"(2) Border state. - The term 'border State' means any State that has a boundary in common with Canada or Mexico."

#### HIGHWAY ECONOMIC REQUIREMENT SYSTEM

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

"(1) Methodology. -

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

to as the 'model').

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

"(C) Report to congress. - Not later than 2 years after the date of enactment of this Act [June 9, 1998], the Comptroller General shall submit to Congress a report on the results of the evaluation.

"(2) State investment plans. -

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

"(B) Required elements. - The study shall -

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

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

"(C) Report to congress. - Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study."

#### SOUTHWEST BORDER TRANSPORTATION INFRASTRUCTURE

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

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

"(2) Consultation. - In carrying out the assessment, the Secretary shall consult with -

"(A) the Secretary of State;

"(B) the Attorney General;

"(C) the Secretary of the Treasury;

"(D) the Commandant of the Coast Guard;

"(E) the Administrator of General Services;

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

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

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

"(3) Requirements. - In carrying out the assessment, the Secretary shall -

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

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

"(C) assess the adequacy of law enforcement and narcotics abatement activities in the border area, as the activities relate to commercial and private traffic and infrastructure;

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

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

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

TRANSPORTATION, COMMUNITY, AND SYSTEM PRESERVATION PROGRAM

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

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

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

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

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

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

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

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

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

"(d) Eligibility. - A project described in subsection (c) is an eligible project under this section if the project -

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

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

"(A) Transit-oriented development plans.

"(B) Traffic calming measures.

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

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

"(1) have instituted preservation or development plans and programs that -

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

"(B) promote cost-effective and strategic investments in



transportation infrastructure that minimize adverse impacts on the environment; or

"(C) promote innovative private sector strategies;

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

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

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

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

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

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

"(4) demonstrate a commitment to public and private involvement, including the involvement of nontraditional partners in the project team; and

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

"(f) Equitable Distribution. - In allocating funds to carry out this section, the Secretary [of Transportation] shall ensure the equitable distribution of funds to a diversity of populations and geographic regions.

"(g) Funding. -

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

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

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

#### TRANSPORTATION ASSISTANCE FOR OLYMPIC CITIES

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

"(a) Purpose. - The purpose of this section is to authorize the provision of assistance for, and support of, State and local

efforts concerning surface transportation issues necessary to obtain the national recognition and economic benefits of participation in the International Olympic movement, the International Paralympic movement, and the Special Olympics International movement by hosting international quadrennial Olympic and Paralympic events, and Special Olympics International events, in the United States.

"(b) Priority for Transportation Projects Relating to Olympic, Paralympic, and Special Olympic Events. - Notwithstanding any other provision of law, from funds available to carry out sections 118(c) and 144(g)(1) [now 144(f)(1)] of title 23, United States Code, the Secretary may give priority to funding for a transportation project relating to an international quadrennial Olympic or Paralympic event, or a Special Olympics International event, if -

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

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

"(c) Transportation Planning Activities. - The Secretary may participate in -

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

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

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

"(e) Transportation Projects Relating to Olympic, Paralympic, and Special Olympic Events. -

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

"(2) Federal share. - The Federal share of the cost of a project assisted under this subsection shall not exceed 80 percent.

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

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

#### DISCRETIONARY GRANT SELECTION CRITERIA AND PROCESS

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

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

"(b) Selection Process. -

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

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

"(c) Minimum Covered Programs. - At a minimum, the criteria established under subsection (a) and the selection process established by subsection (b) shall apply to the following programs:

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

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

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

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

"(5) The national scenic byways program.

"(6) The Interstate discretionary program.

"(7) The discretionary bridge program."

#### COMPLIANCE WITH BUY AMERICAN ACT

Pub. L. 104-59, title III, Sec. 359(c), Nov. 28, 1995, 109 Stat. 627, directed Secretary of Transportation to conduct a study on compliance with Buy American Act (see 41 U.S.C. 8301 et seq.) 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. 111-147, title IV, Sec. 451, Mar. 18, 2010, 124 Stat. 96, provided that:

"(a) Definitions. - In this section, the following definitions apply:

"(1) Small business concern. - The term 'small business concern' has the meaning that term has under section 3 of the Small Business Act (15 U.S.C. 632), except that the term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of \$22,410,000, as adjusted annually by the Secretary of Transportation for inflation.

"(2) Socially and economically disadvantaged individuals. - The term 'socially and economically disadvantaged individuals' has the meaning that term has under section 8(d) of the Small

Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations issued pursuant to that Act [15 U.S.C. 631 et seq.], except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this section.

"(b) General Rule. - Except to the extent that the Secretary of Transportation determines otherwise, not less than 10 percent of the amounts made available for any program under titles I, III, and V of SAFETEA-LU (Public Law 109-59) [see Tables for classification], subtitles A and C of this title [subtitles A (Secs. 411-414) and C (Secs. 431-437) of title IV of Pub. L. 111-147, amending sections 5305, 5307, 5309, 5311, 5337, and 5338 of Title 49, Transportation, and provisions set out as notes under sections 5309, 5310, and 5338 of Title 49], and section 403 of title 23, United States Code, shall be expended through small business concerns owned and controlled by socially and economically disadvantaged individuals.

"(c) Annual Listing of Disadvantaged Business Enterprises. - Each State shall annually

"(1) survey and compile a list of the small business concerns referred to in subsection (a) and the location of the concerns in the State; and

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

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

"(e) Compliance With Court Orders. - Nothing in this section limits the eligibility of an entity or person to receive funds made available under titles I, III, and V of SAFETEA-LU (Public Law 109-59), subtitles A and C of this title, and section 403 of title 23, United States Code, if the entity or person is prevented, in whole or in part, from complying with subsection (b) because a Federal court issues a final order in which the court finds that the requirement of subsection (b), or the program established under subsection (b), is unconstitutional."

Similar provisions were contained in the following prior acts:

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

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

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

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

Pub. L. 109-14, Sec. 7(s), May 31, 2005, 119 Stat. 334, provided that: "Amounts made available under the amendments made by this section [amending sections 5307, 5309, and 5338 of Title 49, Transportation, and provisions set out as notes under section 322 of this title and sections 5307, 5309, 5310, and 5338 of Title 49] shall be treated for purposes of section 1101(b) of the Transportation Equity Act for the 21st Century [Pub. L. 105-178]

(23 U.S.C. 101 note) as amounts made available for programs under title III of such Act [see Tables for classification]."

Similar provisions were contained in the following prior acts:

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

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

#### HIGHWAY USE TAX EVASION PROJECTS

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

#### SCENIC BYWAYS PROGRAM

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

"(a) Scenic Byways Advisory Committee. -

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

"(2) Membership. - The advisory committee established under this section shall be composed of 17 members as follows:

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

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

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

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

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

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

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

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

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

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

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

advisory committee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(b) Technical and Financial Assistance. - The Secretary shall provide technical assistance to the States (as such term is defined

under section 101 of title 23, United States Code) and shall make grants to the States for the planning, design, and development of State scenic byway programs.

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

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

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

"(f) Interim Scenic Byways Program. -

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

"(2) Priority projects. - In making grants under paragraph (1), the Secretary shall give priority to -

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

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

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

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

"(3) Eligible projects. - The following are projects which are eligible for Federal assistance under this subsection:

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

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

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

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

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

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

byway.

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

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

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

"(h) Treatment of Scenic Highways in Oregon. - For purposes of this section, a highway designated as a scenic highway in the State of Oregon shall be treated as a scenic byway."

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

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

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

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

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

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

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

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

#### SIGNS IDENTIFYING FUNDING SOURCES

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

#### ELIGIBILITY FOR FEDERAL-AID HIGHWAY FUNDS OF PROJECTS INVOLVING



IMPROVEMENTS IN VICINITY OF INTERCHANGES NECESSARY TO UPGRADE  
SAFETY OF PRIMARY ROUTES NOT ON COMMON ALIGNMENT WITH INTERSTATE  
ROUTE

Section 128 of Pub. L. 97-424 provided that: "In any case where a project involving a Federal-aid primary route not on the Interstate System, and a route on the Interstate System which was originally constructed without the expenditure of any funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956, as amended [set out as a note below], and was subsequently added to the Interstate System, both occupying a common alignment and having elements which have been approved in concept by the Secretary of Transportation as part of a project providing for the upgrading of an interchange on such Interstate route, the cost of improvements in the vicinity of the interchange necessary to upgrade the safety of that part of such Federal-aid primary route not on a common alignment with such Interstate route in an environmentally acceptable manner shall be eligible for the expenditure of funds authorized by such section 108(b)."

STUDY OF FUTURE TRANSPORTATION PROFESSIONAL MANPOWER NEEDS; REPORT

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

CHANGE IN LOCATION OF INTERSTATE SEGMENTS

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

"(a) Notwithstanding the provisions of section 4(b) of the Federal-Aid Highway Act of 1981 [section 4(b) of Pub. L. 97-134, which amended section 108(b) of the Federal-Aid Highway Act of 1956, set out as a note under this section] the Secretary of Transportation may approve a change in location of any Interstate route or segment and approve, in lieu thereof, the construction of such Interstate route or segment on a new location if the original location of such route or segment meets the following criteria: (1) it has been designated under section 103(e) of title 23, United States Code; (2) it is serving Interstate travel as of the date of enactment of this section [Jan. 6, 1983]; (3) it requires improvements which are eligible under the Federal-Aid Highway Act of 1981 [see Short Title of 1981 Amendments note above] and which would either involve major modifications in order to meet acceptable standards or result in severe environmental impacts and such major modifications or mitigation measures relating to the environmental impacts are not cost effective. The cost of the construction of such Interstate route or segment on new location with funds available under section 108(b) of the Federal-Aid

Highway Act of 1956, as amended [set out as a note below], shall not exceed the estimated cost of the eligible improvements on the original location as eligible under the Federal-Aid Highway Act of 1981 and included in the 1983 interstate cost estimate as approved by the Congress. Such cost shall be increased or decreased, as determined by the Secretary, based on changes in construction costs of the original location of the route or segment as of the date of approval of each project on the new location. Upon approval of a new location, and funds apportioned under section 104(b)(5)(A) of title 23, United States Code, which were expended on the route or segment in the original location shall be refunded to the Highway Trust Fund and credited to the unobligated balance of the State's apportionment made under section 104(b)(5)(A) of title 23, United States Code, and other eligible Federal-aid highway funds may be substituted in lieu thereof at the appropriate Federal share.

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

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

#### BUY AMERICA

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

#### USE OF ARTICLES MINED OR MANUFACTURED IN UNITED STATES

Pub. L. 95-599, title IV, Sec. 401, Nov. 6, 1978, 92 Stat. 2756, as amended by Pub. L. 97-327, Sec. 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, Sec. 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, Sec. 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, Sec. 126(b), Nov. 6, 1978, 92 Stat. 2706. See section 146 of this title.

EMERGENCY HIGHWAY ENERGY CONSERVATION

Pub. L. 93-239, Secs. 1-3, Jan. 2, 1974, 87 Stat. 1046, 1047, as amended by Pub. L. 93-643, Secs. 114(c), 120(a), Jan. 4, 1975, 83 Stat. 2286, 2289; Pub. L. 94-280, title I, Sec. 143, May 5, 1976, 90 Stat. 445; Pub. L. 95-599, title I, Sec. 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, Sec. 114(c), Jan. 4, 1975, 88 Stat. 2086.]

"Sec. 3. [Repealed. Pub. L. 95-599, title I, Sec. 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 realignment 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 realignment 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, Sec. 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, Sec. 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, Sec. 160(b), Jan. 6, 1983, 96 Stat. 2135.

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

Pub. L. 90-495, Sec. 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, Sec. 13, Sept. 13, 1966, 80 Stat. 770, as amended by Pub. L. 97-449, Sec. 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, Sec. 7(a), Apr. 16, 1958, 72 Stat. 93; Pub. L. 86-342, title I, Sec. 102, Sept. 21, 1959, 73 Stat. 611; Pub. L. 87-61, title I Sec. 103, June 29, 1961, 75 Stat. 122; Pub. L. 89-139, Sec. 1, Aug. 28, 1965, 79 Stat. 578; Pub. L. 89-574, Sec. 2, Sept. 13, 1966, 80 Stat. 766; Pub. L. 90-495, Sec. 2, Aug. 23, 1968, 82 Stat. 815; Pub. L. 91-605 title I, Secs. 102, 106(b)(1), Dec. 31, 1970, 84 Stat. 1714, 1716; Pub. L. 93-87, title I, Sec. 102, Aug. 13, 1973, 87 Stat. 250; Pub. L. 94-280, title I, Sec. 102(a), May 5, 1976, 90 Stat. 425; Pub. L. 95-599, title I, Sec. 102, Nov. 6, 1978, 92 Stat. 2689; Pub. L. 97-134, Sec. 4(a), (b), Dec. 29, 1981, 95 Stat. 1700; Pub. L. 97-327, Sec. 2, Oct. 15, 1982, 96 Stat. 1611; Pub. L. 97-424, title I, Secs. 102, 127(a), Jan. 6, 1983, 96 Stat. 2097, 2117; Pub. L. 100-17, title I, Secs. 104, 138, Apr. 2, 1987, 101 Stat. 142, 175; Pub. L. 102-240, title I, Sec. 1001(f), Dec. 18, 1991, 105 Stat. 1916; Pub. L. 103-331, title III, Sec. 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, Sec. 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."

-CROSS-

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

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

"(1) Department. - The term 'Department' means the Department of Transportation.

"(2) Secretary. - The term 'Secretary' means the Secretary of Transportation."

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

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

"(1) Interstate system. - The term 'Interstate System' has the meaning such term has under section 101 of title 23, United States Code.

"(2) Secretary. - The term 'Secretary' means the Secretary of Transportation."

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

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



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

-FOOTNOTE-

(!1) So in original. The word "to" probably should appear.

(!2) So in original. Probably should be "Defense Highways,".

-End-

-CITE-

23 USC Sec. 102

01/07/2011

-EXPCITE-

TITLE 23 - HIGHWAYS  
CHAPTER 1 - FEDERAL-AID HIGHWAYS

-HEAD-

Sec. 102. Program efficiencies

-STATUTE-

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

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

-SOURCE-

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

-MISC1-

AMENDMENTS

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

"(1) In general. - A State transportation department shall establish the occupancy requirements of vehicles operating in high occupancy vehicle lanes; except that no fewer than 2 occupants per vehicle may be required and, subject to section 163 of the Surface

Transportation Assistance Act of 1982, motorcycles and bicycles shall not be considered single occupant vehicles.

"(2) Exception for inherently low-emission vehicles. - Notwithstanding paragraph (1), before September 30, 2003, a State may permit a vehicle with fewer than 2 occupants to operate in high occupancy vehicle lanes if the vehicle is certified as an Inherently Low-Emission Vehicle pursuant to title 40, Code of Federal Regulations, and is labeled in accordance with, section 88.312-93(c) of such title. Such permission may be revoked by the State should the State determine it necessary."

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

Subsec. (a)(1). Pub. L. 105-178, Sec. 1212(a)(2)(A)(i), substituted "State transportation department" for "State highway department".

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

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

Pub. L. 105-178, Sec. 1206, redesignated subsec. (b) as (c).

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

#### EFFECTIVE DATE OF 1991 AMENDMENT

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

-End-

-CITE-

23 USC Sec. 103

01/07/2011

-EXPCITE-

TITLE 23 - HIGHWAYS  
CHAPTER 1 - FEDERAL-AID HIGHWAYS

-HEAD-

Sec. 103. Federal-aid systems

-STATUTE-

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

(b) National Highway System. -

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

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

(B) meet national defense requirements; and

(C) serve interstate and interregional travel.

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

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

(B) Other urban and rural principal arterial routes.

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

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

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

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

(4) Modifications to nhs. -

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

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

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

(B) Cooperation. -

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

(ii) Urbanized areas. - In an urbanized area, the local officials shall act through the metropolitan planning organization designated for the area under section 134.

(5) Congressional high priority corridors. - Upon the completion of feasibility studies, the Secretary shall add to the

National Highway System any congressional high priority corridor or any segment of such a corridor established by section 1105 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2031 et seq.) that was not identified on the National Highway System described in paragraph (1).

(6) State eligible projects for nhs. - Subject to approval by the Secretary, funds apportioned to a State under section 104(b)(1) for the National Highway System may be obligated for any of the following:

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

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

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

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

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

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

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

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

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

(G) Highway-related technology transfer activities.

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

(I) Fringe and corridor parking facilities.

(J) Carpool and vanpool projects.

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

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

(M) In accordance with all applicable Federal law (including regulations), participation in natural habitat and wetland mitigation efforts related to projects funded under this title, which may include participation in natural habitat and wetland mitigation banks, contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetland, and development of statewide and regional natural habitat and wetland conservation and mitigation plans, including any such banks, efforts, and plans authorized under the Water Resources Development Act of 1990 (Public Law 101-640) (including crediting provisions). Contributions to the mitigation efforts described in the preceding sentence may take place concurrent with or in advance of project construction; except that contributions in advance of project construction may occur only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes. With respect to participation in a natural habitat or wetland mitigation effort

related to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference shall be given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605 (November 28, 1995)) or other applicable Federal law (including regulations).

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

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

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

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

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

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

(c) Interstate System. -

(1) Description. -

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

(B) Design. -

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

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

(C) Location. - Highways on the Interstate System shall be located so as -

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

(ii) to serve the national defense; and

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

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

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

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

(4) Interstate system designations. -

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

(B) Designations as future interstate system routes. -

(i) In general. - If the Secretary determines that a highway on the National Highway System would be a logical addition or connection to the Interstate System and would qualify for designation as a route on the Interstate System under subparagraph (A) if the highway met all standards of a highway on the Interstate System, the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a future Interstate System route.

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

(iii) Removal of designation. -

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

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

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

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

(C) Financial responsibility. - Except as provided in this title, the designation of a highway under this paragraph shall

create no additional Federal financial responsibility with respect to the highway.

(5) Exemption of interstate system. -

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

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

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

(d) Transfer of Interstate Construction Funds. -

(1) Interstate construction funds not in surplus. -

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

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

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

(3) Applicability of certain laws. - Funds transferred under this subsection shall be subject to the laws (including regulations, policies, and procedures) relating to the apportionment to which the funds are transferred.

-SOURCE-

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 887; Pub. L. 86-70, Sec. 21(d)(1), June 25, 1959, 73 Stat. 145; Pub. L. 86-624, Sec. 17(b), (c), July 12, 1960, 74 Stat. 415; Pub. L. 87-866, Sec. 8(a), Oct. 23, 1962, 76 Stat. 1147; Pub. L. 90-238, Jan. 2, 1968, 81 Stat. 772; Pub. L. 90-495, Secs. 14, 21, Aug. 23, 1968, 82 Stat. 822, 826; Pub. L. 91-605, title I, Secs. 106(b), 124, Dec. 31, 1970, 84 Stat. 1716, 1729; Pub. L. 93-87, title I, Secs. 109(a), 110(a), (b), 137, 148(a)-(c), (e), Aug. 13, 1973, 87 Stat. 255, 256, 268, 274; Pub. L. 93-643, Sec. 125, Jan. 4, 1975, 88 Stat. 2290; Pub. L. 94-280, title I, Secs. 109, 110, 111(a), May 5, 1976, 90 Stat. 431, 433; Pub. L. 95-599, title I, Sec. 107(a), (b), (f)(1), Nov. 6, 1978, 92 Stat. 2694, 2695; Pub. L. 96-106, Secs. 1, 2(a), (c), Nov. 9, 1979, 93 Stat. 796; Pub. L. 96-144, Sec. 2, Dec. 13, 1979, 93 Stat. 1084; Pub. L. 97-424, title I, Secs. 107(a)-(c)(1), (d), (e), 108(f), Jan. 6, 1983, 96 Stat. 2101-2104; Pub. L. 100-17, title I, Sec. 103(b), (f)(1), Apr. 2, 1987, 101 Stat. 136, 141; Pub. L. 102-240, title I, Secs. 1006(a), (b), (d), 1011, title III, Sec. 3003(b), Dec. 18, 1991, 105 Stat. 1923, 1925, 1935, 2088; Pub. L. 103-272, Sec. 5(f)(1), July 5, 1994, 108 Stat. 1374; Pub. L. 103-429, Secs. 3(1), 7(a)(4)(B), Oct. 31, 1994, 108 Stat. 4377, 4389; Pub. L. 104-59, title I, Sec. 101, title III, Sec. 301(a), Nov. 28, 1995, 109 Stat. 569, 578; Pub. L. 104-287, Sec. 2, Oct. 11, 1996, 110 Stat. 3388; Pub. L. 105-178, title I, Sec. 1106(b), June 9, 1998, 112 Stat. 131; Pub. L. 109-59, title I, Secs. 1106, 1118(b)(1), title VI, Secs. 6006(a)(1), 6007, Aug. 10, 2005, 119 Stat. 1166, 1181, 1872, 1873.)

-REFTEXT-

REFERENCES IN TEXT

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

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

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

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

-COD-

CODIFICATION

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

-MISC1-

AMENDMENTS

2005 - Subsec. (b)(6). Pub. L. 109-59, Sec. 1118(b)(1)(A), substituted "State eligible" for "Eligible" in heading.

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



airport, and any seaport."

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

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

Subsec. (c)(4)(B)(ii). Pub. L. 109-59, Sec. 1106(a), substituted "25" for "12".

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

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

Subsec. (c)(5). Pub. L. 109-59, Sec. 6007, added par. (5).

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

1996 - Subsec. (e)(4)(L). Pub. L. 104-287 substituted "chapter 53 of title 49" for "fta" in heading.

1995 - Subsec. (b)(3)(C). Pub. L. 104-59, Sec. 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, Sec. 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, Sec. 101(a), added pars. (5) to (8).

Subsec. (i)(8). Pub. L. 104-59, Sec. 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, Sec. 5(f)(1)(A), as amended by Pub. L. 103-429, Sec. 7(a)(4)(B), substituted "chapter 53 of title 49" for "the Federal Transit Act".

Subsec. (e)(4)(L)(ii). Pub. L. 103-272, Sec. 5(f)(1)(B), as amended by Pub. L. 103-429, Sec. 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, Sec. 3(1), substituted "chapter 53 of title 49" for "the Federal Transit Act".

1991 - Subsec. (a). Pub. L. 102-240, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 3003(b), substituted "Federal Transit Act" for "Urban Mass Transportation Act of 1964".

Subsec. (e)(4)(J)(i). Pub. L. 102-240, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 1006(d), added subsec. (i).

1987 - Subsec. (e). Pub. L. 100-17, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 107(f)(1)(B), (C), redesignated par. (5) as (7) and added pars. (5) and (6).

1976 - Subsec. (e)(2). Pub. L. 94-280, Secs. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 148(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 93-87, Sec. 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, Secs. 109(a), 148(c), authorized establishment of Federal-aid urban system in such other urban areas as the State highway department may designate, substituted "shall include high traffic volume arterial and collector routes, including access roads to airports and other transportation terminals" for "designed taking into consideration the highest traffic volume corridors, and the longest trips within such area and shall be selected so as to best serve the goals and objectives of the community as determined by the responsible local officials of such urbanized area based upon the planning process required pursuant to the provisions of section 134 of this title", reenacted third sentence without change, inserted "to the extent feasible" in the text reading "Each route of the system to the extent feasible shall connect with another route", substituted "Routes . . . shall be selected by the appropriate local officials so as to serve the goals and objectives of the community, with the concurrence of the State highway departments, and, in urbanized areas, also in accordance with the planning process under section 134 of this title" for "Routes . . . shall be selected by the appropriate local officials and the State highway departments in cooperation with each other subject to the approval of the Secretary as provided in subsection (f) of this section", and inserted preceding last sentence "Designation of the Federal-aid urban system shall be subject to the approval of the Secretary as provided in subsection (f) of this section", and designated provisions, as amended, as par. (1), respectively.

Subsec. (d)(2). Pub. L. 93-87, Sec. 148(c), added par. (2).

Subsec. (e)(2). Pub. L. 93-87, Sec. 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, Sec. 137(b), added par. (4).

Subsec. (g). Pub. L. 93-87, Sec. 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, Sec. 110(b), added subsec. (h).

1970 - Subsec. (a). Pub. L. 91-605, Sec. 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, Sec. 106(b)(1), substituted "subsection (f)" for "subsection (e)".

Subsecs. (d), (e). Pub. L. 91-605, Sec. 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, Sec. 106(b)(1), (2), redesignated former subsec. (e) as (f) and inserted reference to Federal-aid urban system.

Subsec. (g). Pub. L. 91-605, Sec. 124, added subsec. (g).

1968 - Subsec. (d)(1). Pub. L. 90-495, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 17(b), repealed subsec. (g) which provided that the systems of highways on which funds apportioned to the Territory of Hawaii under this chapter shall be expended may be determined and agreed upon by the Governor of said Territory and the Secretary.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Section 7(a) of Pub. L. 103-429 provided in part that the amendment made by that section is effective July 5, 1994.

#### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by sections 1006 and 1011 of Pub. L. 102-240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102-240, set out as a note under section 104 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Section 107(c) of Pub. L. 95-599 provided that: "The amendment made by subsection (a) of this section [amending this section] shall apply to each route or portion thereof designated under section 103(e)(2) of title 23, United States Code, before January 1, 1978, the construction of which was not complete on such date, and the Secretary of Transportation shall make such revisions in existing contracts and agreements as may be necessary to carry out this section and the amendment made by subsection (a) of this section."

Section 107(f)(2) of Pub. L. 95-599, which provided that the amendments made by section 107(f)(1) of Pub. L. 95-599 to this section apply to any withdrawal of approval before Nov. 6, 1978, was repealed by Pub. L. 96-106, Sec. 2(b), Nov. 9, 1979, 93 Stat. 796.

#### EFFECTIVE DATE OF 1973 AMENDMENT

Section 110(c) of Pub. L. 93-87 provided that: "The amendments made by subsections (a) and (b) of this section [amending this section] shall take effect June 30, 1973."

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-495 effective Aug. 23, 1968, see section 37 of Pub. L. 90-495, set out as a note under section 101 of this title.

#### EFFECTIVE DATE OF 1962 AMENDMENT

Section 8(b) of Pub. L. 87-866 provided that: "The amendment made by subsection (a) of this section [amending this section] shall apply to apportionments made before as well as after the date of enactment of this Act [Oct. 23, 1962]."

#### EFFECTIVE DATE OF 1959 AMENDMENT

Section 21(d) of Pub. L. 86-70 provided that the repeal of subsec. (f) of this section, sections 116(d), 119, and 120(h) of this title, and sections 321a to 321d and 322 to 325 of Title 48, Territories and Insular Possessions, is effective July 1, 1959.

#### FREIGHT INTERMODAL DISTRIBUTION PILOT GRANT PROGRAM

Pub. L. 109-59, title I, Sec. 1306, Aug. 10, 2005, 119 Stat. 1215, provided that:

"(a) In General. - The Secretary [of Transportation] shall establish and implement a freight intermodal distribution pilot grant program.

"(b) Purposes. - The purposes of the program established under subsection (a) shall be for the Secretary [of Transportation] to make grants to States -

"(1) to facilitate and support intermodal freight transportation initiatives at the State and local levels to relieve congestion and improve safety; and

"(2) to provide capital funding to address infrastructure and freight distribution needs at inland ports and intermodal freight facilities.

"(c) Eligible Projects. - Projects for which grants may be made under this section shall help relieve congestion, improve transportation safety, facilitate international trade, and encourage public-private partnership and may include projects for the development and construction of intermodal freight distribution and transfer facilities at inland ports.

"(d) Selection Process. -

"(1) Applications. - A State (as defined in section 101(a) of title 23, United States Code) shall submit for approval by the Secretary [of Transportation] an application for a grant under this section containing such information as the Secretary may require to receive such a grant.

"(2) Priority. - In selecting projects for grants, the Secretary shall give priority to projects that will -

"(A) reduce congestion into and out of international ports located in the United States;

"(B) demonstrate ways to increase the likelihood that freight container movements involve freight containers carrying goods; and

"(C) establish or expand intermodal facilities that encourage the development of inland freight distribution centers.

"(3) Designated projects. - Subject to the provisions of this section, the Secretary shall allocate for each of fiscal years 2005 through 2009, from funds made available to carry out this



section, 20 percent of the following amounts for grants to carry out the following projects under this section:

"(A) Short-haul intermodal projects, Oregon, \$5,000,000.

"(B) The Georgia Port Authority, \$5,000,000.

"(C) The ports of Los Angeles and Long Beach, California, \$5,000,000.

"(D) Fairbanks, Alaska, \$5,000,000.

"(E) Charlotte Douglas International Airport Freight Intermodal Facility, North Carolina, \$5,000,000.

"(F) South Piedmont Freight Intermodal Center, North Carolina, \$5,000,000.

"(e) Use of Grant Funds. - Funds made available to a recipient of a grant under this section shall be used by the recipient for the project described in the application of the recipient approved by the Secretary [of Transportation].

"(f) Report. - Not later than 3 years after the date of enactment of this Act [Aug. 10, 2005], the Secretary [of Transportation] shall submit to Congress a report on the results of the pilot program carried out under this section.

"(g) Funding. -

"(1) In general. - There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$6,000,000 for each of fiscal years 2005 through 2009.

"(2) Contract authority. - Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of a project under this section shall be determined in accordance with section 120 of such title.

"(h) Treatment of Projects. - Notwithstanding any other provision of law, projects for which grants are made under this section shall be treated as projects on a Federal-aid system under chapter 1 of title 23, United States Code."

#### ADMINISTRATION OF NATIONAL HIGHWAY SYSTEM AND INTERSTATE MAINTENANCE PROGRAM

Pub. L. 105-178, title I, Sec. 1106(a), June 9, 1998, 112 Stat. 131, provided that: "The Secretary shall administer the National Highway System program and the Interstate Maintenance program as a combined program for purposes of allowing States maximum flexibility. References in this Act [see Tables for classification] and title 23, United States Code, shall not be affected by such consolidation."

#### UNOBLIGATED BALANCES OF INTERSTATE SUBSTITUTE FUNDS

Pub. L. 105-178, title I, Sec. 1106(b), June 9, 1998, 112 Stat. 136, provided that: "Unobligated balances of funds apportioned to a State under section 103(e)(4)(H) of title 23, United States Code (as in effect on the day before the date of enactment of this Act [June 9, 1998]), shall be available for obligation by the State under the law (including regulations, policies, and procedures) relating to the obligation and expenditure of the funds in effect on that date."

#### INTERMODAL FREIGHT CONNECTORS STUDY

Pub. L. 105-178, title I, Sec. 1106(d), June 9, 1998, 112 Stat. 136, provided that:

"(1) Report. - Not later than 2 years after the date of enactment of this Act [June 9, 1998], the Secretary shall -

"(A) review the condition of and improvements made, since the designation of the National Highway System, to connectors on the National Highway System that serve seaports, airports, and other intermodal freight transportation facilities; and

"(B) report to Congress on the results of such review.

"(2) Review. - In preparing the report, the Secretary shall review the connectors and identify projects carried out on those connectors that were intended to provide and improve service to an intermodal facility referred to in paragraph (1) and to facilitate the efficient movement of freight, including movements of freight between modes.

"(3) Identification of impediments. - If the Secretary determines on the basis of the review that there are impediments to improving the connectors serving intermodal facilities referred to in paragraph (1), the Secretary shall identify such impediments and make any appropriate recommendations as part of the Secretary's report to Congress under this subsection."

#### FUNCTIONAL RECLASSIFICATION OF HIGHWAYS

Section 1006(c) of Pub. L. 102-240 provided that:

"(1) State action. - Each State shall functionally reclassify the roads and streets in such State in accordance with such guidelines and time schedule as the Secretary may establish in order to carry out the objectives of this section [amending this section and sections 101, 104 and 113 of this title and enacting provisions set out as a note under section 311 of this title], including the amendments made by this section.

"(2) Approval and submission to congress. - Not later than September 30, 1993, the Secretary shall approve the functional reclassification of roads and streets made by the States pursuant to this subsection and shall submit a report to Congress containing such reclassification.

"(3) State defined. - In this subsection, the term 'State' has the meaning such term has under section 101 of title 23, United States Code, and shall include the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Marianas."

#### APPORTIONMENT FACTORS FOR EXPENDITURES ON SUBSTITUTE HIGHWAY AND TRANSIT PROJECTS

Section 103(a) of Pub. L. 100-17 directed Secretary to apportion for fiscal year 1987 the sums to be apportioned for such year under 22 U.S.C. 103(e)(4) for expenditure on substitute highway and transit projects, using the apportionment factors contained in the Committee Print Numbered 100-6 of the Committee on Public Works and Transportation of the House of Representatives.

#### SUBSTITUTE TRANSIT PROJECTS; INCREASE IN COST TO COMPLETE; APPORTIONMENT FACTORS

Section 103(c) of Pub. L. 100-17 provided that:

"(1) Increase in cost to complete. - The cost of completing substitute transit projects under section 103(e)(4)(B) of title 23, United States Code, is increased by \$100,000,000.

"(2) Apportionment factors. - Notwithstanding section 103(e)(4) of such title, funds appropriated to carry out projects as a result of enactment of paragraph (1) shall be made available in accordance with the apportionment factors contained in the Committee Print Numbered 100-2 of the Committee on Public Works and Transportation of the House of Representatives."

#### COMBINED ROAD PLAN DEMONSTRATION PROGRAM; REPORT TO CONGRESSIONAL COMMITTEES

Section 137 of Pub. L. 100-17 directed Secretary, in cooperation with up to 5 States, to conduct a combined road plan demonstration to test feasibility of approaches for combining, streamlining, and increasing flexibility in administration of Federal-aid secondary program, Federal-aid urban program, and the off-system bridge, urban bridge, and secondary bridge programs and to submit to Congress an interim report on the program being carried out within 3 years after Apr. 2, 1987, and a final report evaluating the effectiveness of the demonstration program and making needed recommendations as soon as practicable after completion of the demonstration.

ROUTES WITHDRAWN; AVAILABILITY TO SECRETARY OF SUMS WHERE SUMS DETERMINED ARE LESS THAN COST OF COMPLETING WITHDRAWN ROUTES

Section 107(c)(2) of Pub. L. 97-424, as amended by Pub. L. 100-17, title I, Sec. 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, Sec. 107(g), Jan. 6, 1983, 96 Stat. 2103; Pub. L. 100-17, title I, Sec. 103(d)(1), Apr. 2, 1987, 101 Stat. 141, provided that: "By September 30, 1986, all routes or portions thereof on the Interstate System (for which the Secretary of Transportation finds that sufficient Interstate authorizations are available) must be under contract for construction or construction must have commenced. Immediately after such date, the Secretary shall remove from designation as part of the Interstate System each route or portion thereof not complying with this subsection."

[Section 103(d)(2) of Pub. L. 100-17 provided that: "The amendments made by paragraph (1) [amending section 107(e) of Pub. L. 95-599 set out above] shall take effect September 29, 1986."]

INTERSTATE SYSTEM ROUTES WITHDRAWN FOR PURPOSE OF DESIGNATING  
ALTERNATIVE ROUTES AS SUBJECT TO ROUTE WITHDRAWAL PROVISIONS

Section 111(b) of Pub. L. 94-280 provided that: "The amendment made by subsection (a) of this section [to fourth sentence of subsec. (e)(2) of this section] shall be applicable to each route on the Interstate System approval of which was withdrawn or is hereafter withdrawn by the Secretary of Transportation in accordance with the provisions of section 103(e)(2) of title 23, United States Code, including any route on the Interstate System approval of which was withdrawn by the Secretary of Transportation in accordance with the provisions of title 23, United States Code, on August 30, 1965, for the purpose of designating an alternative route."

INTERSTATE SYSTEM SUBSECTION (E)(4) PROVISIONS IN EFFECT PRIOR TO  
AMENDMENT BY PUB. L. 94-280, SEC. 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, Sec. 137(b), Aug. 13, 1973, 87 Stat. 269, and amended Pub. L. 93-643, Sec. 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."

-CITE-

23 USC Sec. 104

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-EXPCITE-

TITLE 23 - HIGHWAYS

CHAPTER 1 - FEDERAL-AID HIGHWAYS

-HEAD-

Sec. 104. Apportionment

-STATUTE-

(a) Administrative Expenses. -

(1) In general. - There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to be made available to the Secretary for administrative expenses of the Federal Highway Administration -

- (A) \$353,024,000 for fiscal year 2005;
- (B) \$370,613,540 for fiscal year 2006;
- (C) \$389,079,500 for fiscal year 2007;
- (D) \$408,465,500 for fiscal year 2008; and
- (E) \$423,717,460 for fiscal year 2009.

(2) Purposes. - The funds authorized by this subsection shall be used -

(A) to administer the provisions of law to be financed from appropriations for the Federal-aid highway program and programs authorized under chapter 2; and

(B) to make transfers of such sums as the Secretary determines to be appropriate to the Appalachian Regional Commission for administrative activities associated with the Appalachian development highway system.

(3) Availability. - The funds made available under paragraph (1) shall remain available until expended.

(b) Apportionments. - On October 1 of each fiscal year, the Secretary, after making the set-asides authorized by subsections (d) and (f) and section 130(e), shall apportion the remainder of the sums authorized to be appropriated for expenditure on the Interstate and National Highway System program, the Congestion Mitigation and Air Quality Improvement program, the highway safety improvement program, and the Surface Transportation program for that fiscal year, among the several States in the following manner:

(1) National highway system component. -

(A) In general. - For the National Highway System (excluding funds apportioned under paragraph (4)), \$40,000,000 for each of fiscal years 2005 and 2006 and \$50,000,000 for each of fiscal years 2007 through 2009 for the territorial highway program under section 215, \$30,000,000 for each of fiscal years 2005 through 2009 for the Alaska Highway, and the remainder apportioned as follows:

(i) 25 percent in the ratio that -

(I) the total lane miles of principal arterial routes (excluding Interstate System routes) in each State; bears to

(II) the total lane miles of principal arterial routes (excluding Interstate System routes) in all States.

(ii) 35 percent in the ratio that -

(I) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System

routes) in each State; bears to

(II) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in all States.

(iii) 30 percent in the ratio that -

(I) the total diesel fuel used on highways in each State; bears to

(II) the total diesel fuel used on highways in all States.

(iv) 10 percent in the ratio that -

(I) the quotient obtained by dividing the total lane miles on principal arterial highways in each State by the total population of the State; bears to

(II) the quotient obtained by dividing the total lane miles on principal arterial highways in all States by the total population of all States.

(B) Minimum apportionment. - Notwithstanding subparagraph (A) and paragraph (4), each State shall receive a minimum of  $\frac{1}{2}$  of 1 percent of the funds apportioned under subparagraph (A) and paragraph (4).

(2) Congestion mitigation and air quality improvement program. -

(A) In general. - For the congestion mitigation and air quality improvement program, in the ratio that -

(i) the total of all weighted nonattainment and maintenance area populations in each State; bears to

(ii) the total of all weighted nonattainment and maintenance area populations in all States.

(B) Calculation of weighted nonattainment and maintenance area population. - Subject to subparagraph (C), for the purpose of subparagraph (A), the weighted nonattainment and maintenance area population shall be calculated by multiplying the population of each area in a State that was a nonattainment area or maintenance area as described in section 149(b) for ozone or carbon monoxide by a factor of -

(i) 1.0 if, at the time of apportionment, the area is a maintenance area;

(ii) 1.0 if, at the time of the apportionment, the area is classified as a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

(iii) 1.1 if, at the time of the apportionment, the area is classified as a moderate ozone nonattainment area under such subpart;

(iv) 1.2 if, at the time of the apportionment, the area is classified as a serious ozone nonattainment area under such subpart;

(v) 1.3 if, at the time of the apportionment, the area is classified as a severe ozone nonattainment area under such subpart;

(vi) 1.4 if, at the time of the apportionment, the area is classified as an extreme ozone nonattainment area under such subpart;

(vii) 1.0 if, at the time of the apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone, but is classified under subpart 3

of part D of title I of such Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide; or

(viii) 1.0 if, at the time of apportionment, an area is designated as nonattainment for ozone under subpart 1 of part D of title I of such Act (42 U.S.C. 7512 et seq.).(!1)

(C) Additional adjustment for carbon monoxide areas. - If, in addition to being designated as a nonattainment or maintenance area for ozone as described in section 149(b), any county within the area was also classified under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.) as a nonattainment or maintenance area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the county, as determined under clauses (i) through (vi) or clause (viii) of subparagraph (B), shall be further multiplied by a factor of 1.2.

(D) Minimum apportionment. - Notwithstanding any other provision of this paragraph, each State shall receive a minimum of 1/2 of 1 percent of the funds apportioned under this paragraph.

(E) Determinations of population. - In determining population figures for the purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary of Commerce.

(3) Surface transportation program. -

(A) In general. - For the surface transportation program, in accordance with the following formula:

(i) 25 percent of the apportionments in the ratio that -

(I) the total lane miles of Federal-aid highways in each State; bears to

(II) the total lane miles of Federal-aid highways in all States.

(ii) 40 percent of the apportionments in the ratio that -

(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

(iii) 35 percent of the apportionments in the ratio that -

(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available; bears to

(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

(B) Minimum apportionment. - Notwithstanding subparagraph (A), each State shall receive a minimum of 1/2 of 1 percent of the funds apportioned under this paragraph.

(4) Interstate maintenance component. - For resurfacing, restoring, rehabilitating, and reconstructing the Interstate System -

(A) 33 1/3 percent in the ratio that -

(i) the total lane miles on Interstate System routes open



to traffic in each State; bears to

(ii) the total of all such lane miles in all States;

(B) 33 1/3 percent in the ratio that -

(i) the total vehicle miles traveled on Interstate System routes open to traffic in each State; bears to

(ii) the total of all such vehicle miles traveled in all States; and

(C) 33 1/3 percent in the ratio that -

(i) the total of each State's annual contributions to the Highway Trust Fund (other than the Mass Transit Account) attributable to commercial vehicles; bears to

(ii) the total of such annual contributions by all States.

(5) Highway safety improvement program. -

(A) In general. - For the highway safety improvement program, in accordance with the following formula:

(i) 33 1/3 percent of the apportionments in the ratio that

-

(I) the total lane miles of Federal-aid highways in each State; bears to

(II) the total lane miles of Federal-aid highways in all States.

(ii) 33 1/3 percent of the apportionments in the ratio that -

(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

(iii) 33 1/3 percent of the apportionments in the ratio that -

(I) the number of fatalities on Federal-aid highways in each State in the latest fiscal year for which data are available; bears to

(II) the number of fatalities on Federal-aid highways in all States in the latest fiscal year for which data are available.

(B) Minimum apportionment. - Notwithstanding subparagraph

(A), each State shall receive a minimum of one-half of 1 percent of the funds apportioned under this paragraph.

(c) Transferability of NHS Apportionments. - A State may transfer not to exceed 50 percent of the State's apportionment under subsection (b)(1) to the apportionment of the State under subsection (b)(3). A State may transfer not to exceed 100 percent of the State's apportionment under subsection (b)(1) to the apportionment of the State under subsection (b)(3) if the State requests to make such transfer and the Secretary approves such transfer as being in the public interest, after providing notice and sufficient opportunity for public comment. Section 133(d) shall not apply to funds transferred under this subsection.

(d) Operation Lifesaver and High Speed Rail Corridors. -

(1) Operation lifesaver. - To carry out a public information and education program to help prevent and reduce motor vehicle accidents, injuries, and fatalities and to improve driver performance at railway-highway crossings -

(A) before making an apportionment under subsection (b)(3)

for fiscal year 2005, the Secretary shall set aside \$560,000 for such fiscal year; and

(B) there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) \$560,000 for each of fiscal years 2006 through 2009.

(2) Railway-highway crossing hazard elimination in high speed rail corridors. -

(A) Funding. - To carry out the elimination of hazards at railway-highway crossings -

(i) before making an apportionment under subsection (b)(3) for fiscal year 2005, the Secretary shall set aside \$5,250,000 for such fiscal year; and

(ii) there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) \$7,250,000 for fiscal year 2006, \$10,000,000 for fiscal year 2007, \$12,500,000 for fiscal year 2008, and \$15,000,000 for fiscal year 2009.

(B) Eligible corridors. - Subject to subparagraph (E), funds made available under subparagraph (A) shall be expended for projects in -

(i) 5 railway corridors selected by the Secretary in accordance with this subsection (as in effect on the day before the date of enactment of this clause);

(ii) 3 railway corridors selected by the Secretary in accordance with subparagraphs (C) and (D);

(iii) a Gulf Coast high speed railway corridor (as designated by the Secretary);

(iv) a Keystone high speed railway corridor from Philadelphia to Harrisburg, Pennsylvania; and

(v) an Empire State railway corridor from New York City to Albany to Buffalo, New York.

(C) Required inclusion of high speed rail lines. - A corridor selected by the Secretary under subparagraph (B) shall include rail lines where railroad speeds of 90 miles or more per hour are occurring or can reasonably be expected to occur in the future.

(D) Considerations in corridor selection. - In selecting corridors under subparagraph (B), the Secretary shall consider -

(i) projected rail ridership volume in each corridor;

(ii) the percentage of each corridor over which a train will be capable of operating at its maximum cruise speed taking into account such factors as topography and other traffic on the line;

(iii) projected benefits to nonriders such as congestion relief on other modes of transportation serving each corridor (including congestion in heavily traveled air passenger corridors);

(iv) the amount of State and local financial support that can reasonably be anticipated for the improvement of the line and related facilities; and

(v) the cooperation of the owner of the right-of-way that can reasonably be expected in the operation of high speed rail passenger service in each corridor.

(E) Certain improvements. - Of such set-aside, not less than \$250,000 for fiscal year 2005, \$1,000,000 for fiscal year 2006, \$1,750,000 for fiscal year 2007, \$2,250,000 for fiscal year

2008, and \$3,000,000 for fiscal year 2009 shall be available for eligible improvements to the Minneapolis/St. Paul-Chicago segment of the Midwest High Speed Rail Corridor.

(F) Authorization of appropriations. - There is authorized to be appropriated \$15,000,000 for each of fiscal years 1999 through 2003 to carry out this subsection.

(e) Certification of Apportionments. -

(1) In general. - On October 1 of each fiscal year the Secretary shall certify to each of the State transportation departments the sums which he has apportioned hereunder to each State for such fiscal year. To permit the States to develop adequate plans for the utilization of apportioned sums, the Secretary shall advise each State of the amount that will be apportioned each year under this section not later than ninety days before the beginning of the fiscal year for which the sums to be apportioned are authorized, except that in the case of the Interstate System the Secretary shall advise each State ninety days prior to the apportionment of such funds.

(2) Notice to states. - If the Secretary has not made an apportionment under section 104, 105, or 144 by the 21st day of a fiscal year beginning after September 30, 1998, the Secretary shall transmit, by such 21st day, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a written statement of the reason for not making such apportionment in a timely manner.

(f) Metropolitan Planning. -

(1) Set-aside. - On October 1 of each fiscal year, the Secretary shall set aside 1.25 percent of the funds authorized to be appropriated for the Interstate maintenance, national highway system, surface transportation, congestion mitigation and air quality improvement, and highway bridge programs authorized under this title to carry out the requirements of section 134.

(2) Apportionment to states of set-aside funds. - These funds shall be apportioned to the States in the ratio which the population in urbanized areas or parts thereof, in each State bears to the total population in such urbanized areas in all the States as shown by the latest available census, except that no State shall receive less than one-half percent of the amount apportioned.

(3) Use of funds. -

(A) In general. - The funds apportioned to any State under paragraph (2) of this subsection shall be made available by the State to the metropolitan planning organizations responsible for carrying out the provisions of section 134 of this title, except that States receiving the minimum apportionment under paragraph (2) may, in addition, subject to the approval of the Secretary, use the funds apportioned to finance transportation planning outside of urbanized areas.

(B) Unused funds. - Any funds that are not used to carry out section 134 may be made available by a metropolitan planning organization to the State to fund activities under section 135.

(4) Distribution of funds within states. -

(A) In general. - The distribution within any State of the planning funds made available to agencies under paragraph (3) of this subsection shall be in accordance with a formula developed by each State and approved by the Secretary which shall consider but not necessarily be limited to, population,

status of planning, attainment of air quality standards, metropolitan area transportation needs, and other factors necessary to provide for an appropriate distribution of funds to carry out the requirements of section 134 and other applicable requirements of Federal law.

(B) Reimbursement. - Not later than 30 days after the date of receipt by a State of a request for reimbursement of expenditures made by a metropolitan planning organization for carrying out section 134, the State shall reimburse, from funds distributed under this paragraph to the metropolitan planning organization by the State, the metropolitan planning organization for those expenditures.

(5) Determination of population figures. - For the purposes of determining population figures under this subsection, the Secretary shall use the most recent estimate published by the Secretary of Commerce.

(g) Not more than 40 per centum of the amount apportioned in any fiscal year to each State in accordance with sections 130 and 144 may be transferred from the apportionment under one section to the apportionment under any other of such sections if such a transfer is requested by the State transportation department and is approved by the Secretary as being in the public interest. The Secretary may approve the transfer of 100 per centum of the apportionment under one such section to the apportionment under any other of such sections if such transfer is requested by the State transportation department, and is approved by the Secretary as being in the public interest, if he has received satisfactory assurances from such State transportation department that the purposes of the program from which such funds are to be transferred have been met. A State may transfer not to exceed 50 percent of the State's apportionment under section 144 in any fiscal year to the apportionment of such State under subsection (b)(1) or subsection (b)(3) of this section. Any transfer to subsection (b)(3) shall not be subject to section 133(d). Nothing in this subsection authorizes the transfer of any amount apportioned from the Highway Trust Fund to any apportionment the funds for which were not from the Highway Trust Fund, and nothing in this subsection authorizes the transfer of any amount apportioned from funds not from the Highway Trust Fund to any apportionment the funds for which were from the Highway Trust Fund.

(h) Recreational Trails Program. -

(1) Administrative costs. - Before apportioning sums authorized to be appropriated to carry out the recreational trails program under section 206, the Secretary shall deduct for administrative, research, technical assistance, and training expenses for such program \$840,000 for each of fiscal years 2005 through 2009. The Secretary may enter into contracts with for-profit organizations or contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations to perform these tasks.

(2) Apportionment to the states. - The Secretary shall apportion the sums authorized to be appropriated for expenditure on the recreational trails program for each fiscal year, among the States in the following manner:

(A) 50 percent of that amount shall be apportioned equally among eligible States.

(B) 50 percent of that amount shall be apportioned among eligible States in amounts proportionate to the degree of non-highway recreational fuel use in each of those States during the preceding year.

(3) Eligible state defined. - In this section, the term "eligible State" means a State that meets the requirements of section 206(c).

(i) Audits of Highway Trust Fund. - From administrative funds made available under subsection (a), the Secretary may reimburse the Office of Inspector General of the Department of Transportation for the conduct of annual audits of financial statements in accordance with section 3521 of title 31.

(j) Report to Congress. - The Secretary shall submit to Congress a report, and also make such report available to the public in a user-friendly format via the Internet, for each fiscal year on -

(1) the amount obligated, by each State, for Federal-aid highways and highway safety construction programs during the preceding fiscal year;

(2) the balance, as of the last day of the preceding fiscal year, of the unobligated apportionment of each State by fiscal year under this section and sections 105 and 144;

(3) the balance of unobligated sums available for expenditure at the discretion of the Secretary for such highways and programs for the fiscal year; and

(4) the rates of obligation of funds apportioned or set aside under this section and sections 105, 133, and 144, according to -

(A) program;

(B) funding category or subcategory;

(C) type of improvement;

(D) State; and

(E) sub-State geographic area, including urbanized and rural areas, on the basis of the population of each such area.

(k) Transfer of Highway and Transit Funds. -

(1) Transfer of highway funds for transit projects. -

(A) In general. - Subject to subparagraph (B), funds made available for transit projects or transportation planning under this title may be transferred to and administered by the Secretary in accordance with chapter 53 of title 49.

(B) Non-federal share. - The provisions of this title relating to the non-Federal share shall apply to the funds transferred under subparagraph (A).

(2) Transfer of transit funds for highway projects. -

(A) In general. - Subject to subparagraph (B), funds made available for highway projects or transportation planning under chapter 53 of title 49 may be transferred to and administered by the Secretary in accordance with this title.

(B) Non-federal share. - The provisions of chapter 53 of title 49 relating to the non-Federal share shall apply to funds transferred under subparagraph (A).

(3) Transfer of funds among states or to federal highway administration. -

(A) In general. - Subject to subparagraphs (B) and (C), the Secretary may, at the request of a State, transfer funds apportioned or allocated under this title to the State to another State, or to the Federal Highway Administration, for the purpose of funding one or more projects that are eligible for assistance with funds so apportioned or allocated.

(B) Apportionment. - The transfer shall have no effect on any apportionment of funds to a State under this section or section

105 or 144.

(C) Surface transportation program. - Funds that are apportioned or allocated to a State under subsection (b)(3) and attributed to an urbanized area of a State with a population of over 200,000 individuals under section 133(d)(3) may be transferred under this paragraph only if the metropolitan planning organization designated for the area concurs, in writing, with the transfer request.

(4) Transfer of obligation authority. - Obligation authority for funds transferred under this subsection shall be transferred in the same manner and amount as the funds for the projects that are transferred under this subsection.

(1) Effect of Certain Delay in Deposits Into Highway Trust Fund. - Notwithstanding any other provision of law, deposits into the Highway Trust Fund resulting from the application of section 901(e) of the Taxpayer Relief Act of 1997 (111 Stat. 872) shall not be taken into account in determining the apportionments and allocations that any State shall be entitled to receive under the Transportation Equity Act for the 21st Century and this title.

-SOURCE-

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 889; Pub. L. 86-70, Sec. 21(e)(2), June 25, 1959, 73 Stat. 146; Pub. L. 86-657, Sec. 8(g), July 14, 1960, 74 Stat. 525; Pub. L. 87-866, Sec. 10(a), Oct. 23, 1962, 76 Stat. 1148; Pub. L. 88-157, Secs. 2, 3, Oct. 24, 1963, 77 Stat. 276; Pub. L. 88-423, Sec. 4(a), Aug. 13, 1964, 78 Stat. 397; Pub. L. 89-574, Sec. 4(b), Sept. 13, 1966, 80 Stat. 767; Pub. L. 90-495, Sec. 4(b), Aug. 23, 1968, 82 Stat. 816; Pub. L. 91-605, title I, Secs. 104(b), 106(c), Dec. 31, 1970, 84 Stat. 1714, 1717; Pub. L. 93-87, title I, Secs. 106(b), 111(a), 112, title II, Sec. 227, Aug. 13, 1973, 87 Stat. 254, 256, 257, 292; Pub. L. 94-280, title I, Secs. 106(b), 107(b), 112(a)-(g), 113(a), title II, Sec. 206, May 5, 1976, 90 Stat. 429, 430, 433-435, 453; Pub. L. 95-599, title I, Secs. 108-110, 116(b), Nov. 6, 1978, 92 Stat. 2695, 2696, 2699; Pub. L. 97-134, Secs. 4(c), 5, Dec. 29, 1981, 95 Stat. 1700; Pub. L. 100-17, title I, Secs. 102(b)(1), (2), 114(e)(1), Apr. 2, 1987, 101 Stat. 135, 153; Pub. L. 100-202, Sec. 101(l) [title III, Sec. 347(a)], Dec. 22, 1987, 101 Stat. 1329-358, 1329-388; Pub. L. 101-516, title III, Sec. 333 (part), Nov. 5, 1990, 104 Stat. 2184; Pub. L. 102-143, title III, Sec. 333(c), Oct. 28, 1991, 105 Stat. 947; Pub. L. 102-240, title I, Secs. 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, Secs. 302, 319(a)(2), 337(f), title IV, Sec. 410, Nov. 28, 1995, 109 Stat. 578, 589, 603, 633; Pub. L. 105-130, Secs. 4(a)(3), 5(b), Dec. 1, 1997, 111 Stat. 2556; Pub. L. 105-178, title I, Secs. 1103(a)-(k), (o), 1212(a)(2)(A), June 9, 1998, 112 Stat. 118-125, 193; Pub. L. 105-206, title IX, Sec. 9002(c)(3), July 22, 1998, 112 Stat. 835; Pub. L. 106-159, title I, Sec. 101(b), Dec. 9, 1999, 113 Stat. 1751; Pub. L. 108-178, Sec. 4(d), Dec. 15, 2003, 117 Stat. 2641; Pub. L. 109-59, title I, Secs. 1103, 1107-1109(a), 1118(b)(2), 1401(a)(3)(A), (b), Aug. 10, 2005, 119 Stat. 1161, 1166-1168, 1181, 1225; Pub. L. 110-244, title I, Sec. 101(i), (m)(3)(A), June 6, 2008, 122 Stat. 1574, 1576.)

-REFTEXT-

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (b)(2)(B), (C), is act

July 14, 1955, ch. 360, 69 Stat. 322. Subparts 1, 2, and 3 of part D of title I of the Act are classified to subparts 1 (Sec. 7501 et seq.), 2 (Sec. 7511 et seq.), and 3 (Sec. 7512 et seq.), respectively, of part D of subchapter I of chapter 85 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The date of enactment of this clause, referred to in subsec. (d)(2)(B)(i), is the date of enactment of Pub. L. 105-178, which was approved June 9, 1998.

Section 901(e) of the Taxpayer Relief Act of 1997, referred to in subsec. (l), is section 901(e) of Pub. L. 105-34, title IX, Aug. 5, 1997, 111 Stat. 872, which is set out as a note under section 6302 of Title 26, Internal Revenue Code.

The Transportation Equity Act for the 21st Century, referred to in subsec. (l), is Pub. L. 105-178, June 9, 1998, 112 Stat. 107. For complete classification of this Act to the Code, see section 1(a) of Pub. L. 105-178, set out as a Short Title of 1998 Amendment note under section 101 of this title and Tables.

-COD-

#### CODIFICATION

Another section 1003(e) of Pub. L. 102-240, as added by Pub. L. 105-130, Sec. 2(d), is not classified to the Code.

-MISC1-

#### AMENDMENTS

2008 - Subsec. (b)(5)(A)(iii). Pub. L. 110-244, Sec. 101(i), substituted "Federal-aid highways" for "the Federal-aid system" in subcls. (I) and (II).

Subsec. (f)(1). Pub. L. 110-244, Sec. 101(m)(3)(A), struck out "replacement and rehabilitation" after "highway bridge".

2005 - Subsec. (a). Pub. L. 109-59, Sec. 1103(a)(1), reenacted heading without change and amended text of subsec. (a) generally, substituting provisions authorizing appropriations for administrative expenses of the Federal Highway Administration and provisions relating to uses and availability of funds for provisions relating to deduction for administrative activities from sums made available under certain programs and provisions relating to consideration of unobligated balances, availability of sums, and limitation on transferability.

Subsec. (b). Pub. L. 109-59, Secs. 1103(a)(2)(A), 1401(b)(1), in introductory provisions, substituted "the set-asides authorized by subsections (d) and (f) and section 130(e)" for "the deduction authorized by subsection (a) and the set-aside authorized by subsection (f)" and inserted "the highway safety improvement program," after "Improvement program,".

Subsec. (b)(1)(A). Pub. L. 109-59, Secs. 1103(b), (c), 1118(b)(2), in introductory provisions, substituted "\$40,000,000 for each of fiscal years 2005 and 2006 and \$50,000,000 for each of fiscal years 2007 through 2009 for the territorial highway program under section 215, \$30,000,000 for each of fiscal years 2005 through 2009" for "\$36,400,000 for each fiscal year to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands, \$18,800,000 for each of fiscal years 1998 through 2002".

Subsec. (b)(2)(B)(i). Pub. L. 109-59, Sec. 1103(d)(1)(A), added cl. (i) and struck out former cl. (i) which read as follows: "0.8 if -

"(I) at the time of the apportionment, the area is a

maintenance area; or

"(II) at the time of the apportionment, the area is classified as a submarginal ozone nonattainment area under the Clean Air Act (42 U.S.C. 7401 et seq.);".

Subsec. (b)(2)(B)(viii). Pub. L. 109-59, Sec. 1103(d)(1)(B)-(D), added cl. (viii).

Subsec. (b)(2)(C). Pub. L. 109-59, Sec. 1103(d)(2), added subpar. (C) and struck out former subpar. (C), which required that the weighted nonattainment or maintenance area population of the area for a carbon monoxide nonattainment area be further multiplied by a factor of 1.2 and that the weighted nonattainment or maintenance area population of the area for a carbon monoxide maintenance area be further multiplied by a factor of 1.1.

Subsec. (b)(5). Pub. L. 109-59, Sec. 1401(b)(2), added par. (5).

Subsec. (d)(1). Pub. L. 109-59, Sec. 1103(f)(1), added par. (1) and struck out heading and text of former par. (1). Text read as follows: "Before making an apportionment under subsection (b)(3) of this section for a fiscal year, the Secretary shall set aside \$500,000 for such fiscal year for carrying out a public information and education program to help prevent and reduce motor vehicle accidents, injuries, and fatalities and to improve driver performance at railway-highway crossings."

Subsec. (d)(2). Pub. L. 109-59, Sec. 1103(f)(1), reenacted heading without change.

Subsec. (d)(2)(A). Pub. L. 109-59, Sec. 1103(f)(1), added subpar. (A) and struck out heading and text of former subpar. (A). Text read as follows: "Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside \$5,250,000 of the funds made available for the surface transportation program for the fiscal year for elimination of hazards of railway-highway crossings."

Subsec. (d)(2)(E). Pub. L. 109-59, Sec. 1103(f)(2), substituted "Of such set-aside, not less than \$250,000 for fiscal year 2005, \$1,000,000 for fiscal year 2006, \$1,750,000 for fiscal year 2007, \$2,250,000 for fiscal year 2008, and \$3,000,000 for fiscal year 2009" for "Not less than \$250,000 of such set-aside" and struck out "per fiscal year" after "shall be available".

Subsec. (e)(1). Pub. L. 109-59, Sec. 1103(a)(2)(B), struck out ", and also the sums which he has deducted for administration pursuant to subsection (a) of this section" after "such fiscal year".

Subsec. (f)(1). Pub. L. 109-59, Sec. 1107(1), added par. (1) and struck out heading and text of former par. (1). Text read as follows: "On October 1 of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) of this section, shall set aside not to exceed 1 percent of the remaining funds authorized to be appropriated for expenditure upon programs authorized under this title, for the purpose of carrying out the requirements of section 134 of this title."

Subsec. (f)(2). Pub. L. 109-59, Sec. 1107(2), substituted "percent" for "per centum".

Subsec. (f)(3). Pub. L. 109-59, Sec. 1107(3), designated first sentence as subpar. (A), inserted heading, and substituted subpar. (B) for second sentence which read as follows: "These funds shall be matched in accordance with section 120(b) unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching."

Subsec. (f)(4). Pub. L. 109-59, Sec. 1107(4), designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (g). Pub. L. 109-59, Sec. 1401(a)(3)(A), substituted "sections 130 and 144" for "sections 130, 144, and 152 of this title".



Subsec. (h)(1). Pub. L. 109-59, Sec. 1109(a)(1), substituted "Before apportioning sums authorized to be appropriated to carry out the recreational trails program under section 206, the Secretary shall deduct for administrative, research, technical assistance, and training expenses for such program \$840,000 for each of fiscal years 2005 through 2009." for "Whenever an apportionment is made of the sums authorized to be appropriated to carry out the recreational trails program under section 206, the Secretary shall deduct an amount, not to exceed 1 1/2 percent of the sums authorized, to cover the cost to the Secretary for administration of and research and technical assistance under the recreational trails program and for administration of the National Recreational Trails Advisory Committee."

Subsec. (h)(2). Pub. L. 109-59, Sec. 1109(a)(2), substituted "The Secretary shall apportion the sums" for "After making the deduction authorized by paragraph (1) of this subsection, the Secretary shall apportion the remainder of the sums" in introductory provisions.

Subsec. (i). Pub. L. 109-59, Sec. 1103(a)(2)(C), substituted "made available" for "deducted".

Subsec. (j). Pub. L. 109-59, Sec. 1103(e), substituted "submit to Congress a report, and also make such report available to the public in a user-friendly format via the Internet," for "submit to Congress a report" in introductory provisions.

Subsec. (k). Pub. L. 109-59, Sec. 1108, reenacted heading without change and amended text of subsec. (k) generally. Prior to amendment, text read as follows:

"(1) Transfer of highway funds. - Funds made available under this title and transferred for transit projects of a type described in section 133(b)(2) shall be administered by the Secretary in accordance with chapter 53 of title 49, except that the provisions of this title relating to the non-Federal share shall apply to the transferred funds.

"(2) Transfer of transit funds. - Funds made available under chapter 53 of title 49 and transferred for highway projects shall be administered by the Secretary in accordance with this title, except that the provisions of such chapter relating to the non-Federal share shall apply to the transferred funds.

"(3) Transfer of obligation authority. - Obligation authority provided for projects described in paragraphs (1) and (2) shall be transferred in the same manner and amount as the funds for the projects are transferred."

2003 - Subsec. (a)(1). Pub. L. 108-178 substituted "section 14501 of title 40" for "section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.)" in introductory provisions.

1999 - Subsec. (a)(1). Pub. L. 106-159, Sec. 101(b)(1)-(3), substituted "exceed - " for "exceed 1 1/2 percent of all sums so made available, as the Secretary determines necessary - " in introductory provisions, added introductory provisions of subpar. (A), redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A), substituted "; and" for the period at end of cl. (ii), and added subpar. (B).

Subsec. (a)(4). Pub. L. 106-159, Sec. 101(b)(4), which directed amendment of subsec. (a)(1) by adding par. (4) at the end, was executed by adding par. (4) at the end of subsec. (a), to reflect the probable intent of Congress.

1998 - Subsec. (a). Pub. L. 105-178, Sec. 1103(a), added subsec. (a) and struck out former subsec. (a) which read as follows: "Whenever an apportionment is made of the sums authorized to be appropriated for expenditure on the surface transportation program, the congestion mitigation and air quality improvement program, the

National Highway System, and the Interstate System, the Secretary shall deduct a sum, in such amount not to exceed 3 3/4 per centum of all sums so authorized as the Secretary may deem necessary for administering the provisions of law to be financed from appropriations for the Federal-aid systems and for carrying on the research authorized by subsections (a) and (b) of section 307 of this title. In making such determination, the Secretary shall take into account the unexpended balance of any sums deducted for such purposes in prior years. The sum so deducted shall be available for expenditure from the unexpended balance of any appropriation made at any time for expenditure upon the Federal-aid systems, until such sum has been expended."

Subsec. (a)(1). Pub. L. 105-178, Sec. 1103(o)(1), as added by Pub. L. 105-206, Sec. 9002(c)(3), struck out "under section 103" after "National Highway System program" in introductory provisions.

Subsec. (b). Pub. L. 105-178, Sec. 1103(b), inserted heading and amended text of subsec. (b) generally. Prior to amendment, text related to Secretary's apportionment among various States of sums authorized to be appropriated for surface transportation program, congestion mitigation and air quality improvement program, National Highway System, and Interstate System each fiscal year.

Subsec. (b)(1)(A). Pub. L. 105-178, Sec. 1103(o)(2)(A), as added by Pub. L. 105-206, Sec. 9002(c)(3), substituted "1998 through 2002" for "1999 through 2003".

Subsec. (b)(4)(B)(i). Pub. L. 105-178, Sec. 1103(o)(2)(B), as added by Pub. L. 105-206, Sec. 9002(c)(3), substituted "on Interstate System routes open to traffic in each State" for "on lanes on Interstate System routes designated under -

"(I) section 103;

"(II) section 139(a) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) before March 9, 1984 (other than routes on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)); and

"(III) section 139(c) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century);

in each State".

Subsec. (d)(1). Pub. L. 105-178, Sec. 1103(c)(1), substituted "Before making an apportionment under subsection (b)(3) of this section for a fiscal year, the Secretary shall set aside \$500,000 for such" for "The Secretary shall expend, from administrative funds deducted under subsection (a), \$300,000 for each".

Subsec. (d)(2). Pub. L. 105-178, Sec. 1103(c)(2), added par. (2) and struck out former par. (2) which read as follows:

"(2) Railway-highway crossing hazard elimination in high speed rail corridors. - (A) Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside \$5,000,000 of the funds authorized to be appropriated for the surface transportation program for such fiscal year for elimination of hazards of railway-highway crossings in not to exceed 5 railway corridors selected by the Secretary in accordance with the criteria set forth in this paragraph.

"(B) A corridor selected by the Secretary under subparagraph (A) must include rail lines where railroad speeds of 90 miles per hour are occurring or can reasonably be expected to occur in the future."

Subsec. (d)(3). Pub. L. 105-178, Sec. 1103(c)(2), struck out par. (3) which read as follows: "In making the determination required by paragraph (2)(A), the Secretary shall consider projected rail ridership volumes in such corridors, the percentage of the corridor

over which a train will be capable of operating at its maximum cruise speed taking into account such factors as topography and other traffic on the line, projected benefits to nonriders such as congestion relief on other modes of transportation serving the corridors (including congestion in heavily traveled air passenger corridors), the amount of State and local financial support that can reasonably be anticipated for the improvement of the line and related facilities, and the cooperation of the owner of the right-of-way that can reasonably be expected in the operation of high speed rail passenger service in such corridors."

Subsec. (e). Pub. L. 105-178, Sec. 1103(d), inserted heading, designated existing provisions as par. (1), inserted heading, struck out "(other than under subsection (b)(5) of this section)" after "apportioned hereunder" and "and research" before "pursuant to subsection (a) of this section" in first sentence, struck out second sentence which read "On October 1 of the year preceding the fiscal year for which authorized, the Secretary shall certify to each of the State highway departments the sums which he has apportioned under subsection (b)(5) of this section to each State for such fiscal year, and also the sums which he has deducted for administration and research pursuant to subsection (a) of this section.", realigned margins, and added par. (2).

Subsec. (e)(1). Pub. L. 105-178, Sec. 1212(a)(2)(A)(ii), substituted "State transportation departments" for "State highway departments".

Subsec. (e)(2). Pub. L. 105-178, Sec. 1103(o)(3), as added by Pub. L. 105-206, Sec. 9002(c)(3), substituted "104, 105, or 144" for "104, 144, or 157".

Subsec. (f). Pub. L. 105-178, Sec. 1103(k)(1), inserted heading.

Subsec. (f)(1). Pub. L. 105-178, Sec. 1103(k)(2), which directed the amendment of par. (1) by striking out " ', except that' and all that follows through 'programs' ", was executed by striking out ", except that the amount from which such set aside is made shall not include funds authorized to be appropriated for the recreational trails program" after "section 134 of this title" to reflect the probable intent of Congress and the amendment by Pub. L. 105-178, Sec. 1103(e)(1). See below.

Pub. L. 105-178, Sec. 1103(k)(1), (6), inserted heading and realigned margins.

Pub. L. 105-178, Sec. 1103(e)(1), substituted "recreational trails program" for "Interstate construction and Interstate substitute programs".

Subsec. (f)(2). Pub. L. 105-178, Sec. 1103(k)(3), (6), inserted heading and realigned margins.

Subsec. (f)(3). Pub. L. 105-178, Sec. 1103(e)(2), (k)(4), (6), inserted heading, substituted "section 120(b)" for "section 120(j) of this title", and realigned margins.

Subsec. (f)(4). Pub. L. 105-178, Sec. 1103(k)(5), (6), inserted heading and realigned margins.

Subsec. (f)(5). Pub. L. 105-178, Sec. 1103(k)(6), realigned margins.

Subsec. (g). Pub. L. 105-178, Sec. 1212(a)(2)(A)(i), substituted "State transportation department" for "State highway department" wherever appearing.

Subsec. (h). Pub. L. 105-178, Sec. 1103(f), amended heading and text of subsec. (h) generally. Prior to amendment, text read as follows: "In addition to funds made available from the National Recreational Trails Trust Fund, the Secretary shall obligate, from administrative funds (contract authority) deducted under subsection (a), to carry out section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261) \$15,000,000

for each of fiscal years 1996 and 1997 and \$7,500,000 for the period of October 1, 1997, through March 31, 1998."

Subsec. (i). Pub. L. 105-178, Sec. 1103(g), added subsec. (i) and struck out former subsec. (i) which read as follows:

"(i) Woodrow Wilson Memorial Bridge. -

"(1) Expenditure. - From any available administrative funds deducted under subsection (a), the Secretary shall obligate such sums as are necessary for each of fiscal years 1996 and 1997, and for the period of October 1, 1997, through March 31, 1998, for the rehabilitation of the Woodrow Wilson Memorial Bridge and for environmental studies and documentation, planning, preliminary engineering and design, and final engineering for a new crossing of the Potomac River as part of the Project, as defined by section 404 of the Woodrow Wilson Memorial Bridge Authority Act of 1995.

"(2) Federal share. - The Federal share of the cost of any project funded with amounts expended under paragraph (1) shall be 100 percent."

Subsec. (j). Pub. L. 105-178, Sec. 1103(h), added subsec. (j) and struck out former subsec. (j) which read as follows: "The Secretary shall submit to Congress not later than the 20th day of each calendar month which begins after the date of enactment of this subsection a report on (1) the amount of obligation, by State, for Federal-aid highways and the highway safety construction programs during the preceding calendar month, (2) the cumulative amount of obligation, by State, for that fiscal year, (3) the balance as of the last day of such preceding month of the unobligated apportionment of each State by fiscal year, and (4) the balance of unobligated sums available for expenditure at the discretion of the Secretary for such highways and programs for that fiscal year."

Subsec. (k). Pub. L. 105-178, Sec. 1103(i), added subsec. (k).

Subsec. (l). Pub. L. 105-178, Sec. 1103(j), added subsec. (l).

1997 - Subsec. (h). Pub. L. 105-130, Sec. 5(b), added Pub. L. 102-240, Sec. 1003(e). See 1991 Amendment note below.

Subsec. (i)(1). Pub. L. 105-130, Sec. 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, Sec. 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, Sec. 302, substituted "exceed 50 percent" for "exceed 40 percent" in third sentence.

Subsecs. (h) to (j). Pub. L. 104-59, Secs. 337(f), 410, added subsecs. (h) and (i) and redesignated former subsec. (h) as (j).

1991 - Subsec. (a). Pub. L. 102-240, Sec. 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, Sec. 333(c), repealed Pub. L. 101-516, Sec. 333. See 1990 Amendment note below.

Subsec. (b). Pub. L. 102-240, Sec. 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, Sec. 333(c), repealed Pub. L. 101-516, Sec. 333. See 1990 Amendment note below.

Subsec. (b)(1). Pub. L. 102-240, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 333(c), repealed Pub. L. 101-516, Sec. 333. See 1990 Amendment note below.

Subsec. (d). Pub. L. 102-240, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 1024(b)(6), added par. (5).

Subsec. (g). Pub. L. 102-240, Sec. 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, Sec. 1003(e), as added by Pub. L. 105-130, Sec. 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, Sec. 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, Sec. 333(c). See Construction of 1990 Amendment note below and section 159(a)(2), (3) of this title.

Subsec. (b). Pub. L. 101-516, Sec. 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, Sec. 333(c). See Construction of 1990 Amendment note below and section 159(b) of this title.

Subsec. (c). Pub. L. 101-516, Sec. 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, Sec. 333(c). See Construction of 1990 Amendment note below and section 159(c) of this title.

1987 - Subsec. (b). Pub. L. 100-17, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 108, inserted provision relating to deadline for inclusion of estimate.

Subsec. (b)(5)(B). Pub. L. 95-599, Sec. 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, Sec. 109, substituted "50" for "40" and "20" wherever appearing.

Subsec. (h). Pub. L. 95-599, Sec. 110, added subsec. (h).

1976 - Subsec. (b). Pub. L. 94-280, Sec. 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, Sec. 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, Sec. 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, Secs. 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, Sec. 106(b), added subpar. (B).

Subsec. (c). Pub. L. 94-280, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 112(f), authorized State use of apportioned funds to finance transportation planning outside of urbanized areas.

Subsec. (g). Pub. L. 94-280, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 227, added subsec. (g).

1970 - Subsec. (b)(5). Pub. L. 91-605, Sec. 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, Sec. 106(c)(2), added par. (6).

Subsec. (f). Pub. L. 91-605, Sec. 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, Sec. 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, Sec. 3, substituted "1971" for "1969" in introductory text and 3d sentence; inserted "For the fiscal years 1960 through 1966," and substituted "such State" for "each State" in 1st sentence; inserted 2d sentence respecting apportionment for fiscal years 1967 through 1971; substituted in 9th sentence "January 2, 1965" for "January 2, 1966, and annually thereafter through and including January 2, 1968"; substituted in 10th sentence "Upon the approval of such estimate by the Congress" for "Upon approval of any such estimate by the Congress by concurrent resolution" and "fiscal years ending June 30, 1967; June 30, 1968; and June 30, 1969" for "fiscal year which begins next following the fiscal year in which such report is transmitted to the Senate and the House of Representatives" and inserted "the Federal share of" before "such approved estimate"; and inserted 11th through 14th sentences, respecting revised cost estimate for completion of the Interstate System and its submission to Congress within 10 days after Jan. 2, 1968, apportionment for fiscal year ending June 30, 1970, final revised cost estimate for completion of the Interstate System and its submission to Congress within 10 days after Jan. 2, 1969, and apportionment for fiscal year ending June 30, 1971, respectively.

1962 - Subsec. (b)(1). Pub. L. 87-866 substituted "preceding calendar year" for "preceding fiscal year".

1960 - Subsec. (b)(5). Pub L. 86-657 struck out provisions which required, in making the estimates of cost for completing the Interstate System, exclusion of the cost of completing any mileage designated from the one thousand additional miles authorized by section 108(1) of the Federal-Aid Highway Act of 1956.

1959 - Subsec. (b). Pub. L. 86-70 struck out ", except that only one-third of the area of Alaska shall be included" after "total area of all States" in pars. (1) and (2).

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-244, title I, Sec. 101(i), June 6, 2008, 122 Stat. 1574, provided that the amendment made by section 101(i) is effective Oct. 1, 2007.

#### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-178 effective Aug. 21, 2002, see section 5 of Pub. L. 108-178, set out as a note under section 5334 of Title 5, Government Organization and Employees.

#### EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-159 effective Jan. 1, 2000, see section 107(a) of Pub. L. 106-159, set out as a note under section 104 of Title 49, Transportation.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Pub. L. 105-206, set out as a note under section 101 of this title.

#### EFFECTIVE DATE OF 1991 AMENDMENT

Section 1100 of title I of Pub. L. 102-240 provided that:  
"(a) General Rule. - This title [see Tables for classification], including the amendments made by this title, shall take effect on the date of the enactment of this Act [Dec. 18, 1991]."

"(b) Applicability. - The amendments made by this title shall apply to funds authorized to be appropriated or made available after September 30, 1991, and, except as otherwise provided in subsection (c), shall not apply to funds appropriated or made available on or before September 30, 1991.

"(c) Unobligated Balances. -

"(1) In general. - Unobligated balances of funds apportioned to a State under sections 104(b)(1), 104(b)(2), 104(b)(5)(B), and 104(b)(6) of title 23, United States Code, before October 1, 1991, shall be available for obligation in that State under the law, regulations, policies and procedures relating to the obligation and expenditure of those funds in effect on September 30, 1991.

"(2) Transferability. -

"(A) Primary system. - A State may transfer unobligated balances of funds apportioned to the State for the Federal-aid primary system before October 1, 1991, to the apportionment to such State under section 104(b)(1) or 104(b)(3) of title 23, United States Code, or both.

"(B) Secondary and urban system. - A State may transfer unobligated balances of funds apportioned to the State for the Federal-aid secondary system or the Federal-aid urban system before October 1, 1991, to the apportionment to such State under section 104(b)(3) of such title.

"(C) Applicability of certain laws, regulations, policies, and procedures. - Funds transferred under this paragraph shall be subject to the laws, regulations, policies, and procedures relating to the apportionment to which they are transferred."

#### EFFECTIVE DATE OF 1976 AMENDMENT; APPLICABLE PROVISIONS DEPENDENT ON FISCAL FUND AUTHORIZATIONS

Section 113(b) of Pub. L. 94-280 provided that: "The amendment made by subsection (a) of this section [amending this section] shall take effect on July 1, 1976, and shall be applicable with respect to funds authorized for the fiscal year ending September 30, 1977, and for subsequent fiscal years. With respect to the fiscal year 1976 and earlier fiscal years, the provisions of subsections (c) and (d) of section 104 of title 23, United States Code, as in effect on June 30, 1976, shall remain applicable to funds authorized for such years."

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-495 effective Aug. 23, 1968, see section 37 of Pub. L. 90-495, set out as a note under section 101 of this title.

#### EFFECTIVE DATE OF 1962 AMENDMENT

Section 10(b) of Pub. L. 87-866 provided that: "The amendment made by subsection (a) of this section [amending this section] shall be applicable only with respect to apportionments made after the date of enactment of this Act [Oct. 23, 1962]."

#### EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-70 effective July 1, 1959, see section 21(e) of Pub. L. 86-70, set out as a note under section 101 of this title.

#### CONSTRUCTION OF 1990 AMENDMENT

Section 333(d) of Pub. L. 102-143 provided that: "The amendments made by section 333 of the Department of Transportation and Related Agencies Appropriations Act, 1991 (104 Stat. 2184-2186) [Pub. L.

101-516, amending this section and enacting provisions formerly set out as a note below] shall be treated as having not been enacted into law."

#### FEDERAL-AID HIGHWAYS APPROPRIATIONS

Pub. L. 109-289, div. B, title II, Sec. 21010, as added by Pub. L. 110-5, Sec. 2, Feb. 15, 2007, 121 Stat. 48, provided that: "Notwithstanding section 101 [42 U.S.C. 12651i note, 121 Stat. 8], the level for 'Federal Highway Administration, Federal-Aid Highways (Limitation on Obligations) (Highway Trust Fund)' shall be \$39,086,464,683."

[For definition of "level" as used in section 21010 of Pub. L. 109-289, set out above, see section 101(b) of Pub. L. 109-289, set out as a note under section 12651i of Title 42, The Public Health and Welfare.]

#### ADJUSTMENTS FOR SURFACE TRANSPORTATION EXTENSION ACT OF 1997

Pub. L. 105-178, title I, Sec. 1103(m), June 9, 1998, 112 Stat. 126, provided that:

"(1) In general. - Notwithstanding any other provision of law and subject to section 2(c) of the Surface Transportation Extension Act of 1997 [Pub. L. 105-130, set out below], the Secretary shall ensure that the total apportionments for a State (other than Massachusetts) for fiscal year 1998 made under the Transportation Equity Act for the 21st Century [Pub. L. 105-178, see Tables for classification] (including amendments made by such Act) shall be reduced by the amount apportioned to such State (other than Massachusetts) under section 1003(d)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 [Pub. L. 102-240, 111 Stat. 2553].

"(2) Repayment of transferred funds. - The Secretary shall ensure that any apportionments made to a State for fiscal year 1998 and adjusted under paragraph (1) shall first be used to restore in accordance with section 3(c) of the Surface Transportation Extension Act of 1997 [Pub. L. 105-130, 111 Stat. 2555] any funds that a State transferred under section 3 of such Act.

"(3) Insufficient funds for repayment. - If a State has insufficient funds apportioned in fiscal year 1998 under the Transportation Equity Act for the 21st Century (including amendments made by such Act) to make the adjustment required by paragraph (1), then the Secretary shall make an adjustment to any funds apportioned to such State in fiscal year 1999.

"(4) Allocated programs. - Notwithstanding any other provision of law, amounts made available for fiscal year 1998 by the Transportation Equity Act for the 21st Century (including amendments made by such Act) for a program that is continued by both of sections 4, 5, 6, and 7 of the Surface Transportation Extension Act of 1997 (including amendments made by such sections) [Pub. L. 105-130, see Tables for classification] and the Transportation Equity Act for the 21st Century (including amendments made by such Act) shall be reduced by the amount made available by such sections 4, 5, 6, and 7 for such programs.

"(5) Treatment of STEA obligation authority. - The amount of obligation authority made available under section 2(e) of the Surface Transportation Extension Act of 1997 [Pub. L. 105-130, set out below] shall be considered to be an amount of obligation authority made available for fiscal year 1998 under section 1102(a) of this Act [set out above]."

#### ADVANCES

Pub. L. 109-59, title I, Sec. 1936, Aug. 10, 2005, 119 Stat.



1510, provided that: "Notwithstanding any other provision of law, funds apportioned to a State under section 104(b) of title 23, United States Code, may be obligated to carry out a project designated in any of sections 1301, 1302, 1306, and 1934 of this Act [see Tables for classification] and sections 117 and 144(g) [now 144(f)] of title 23, United States Code, in an amount not to exceed the amount authorized for that project, only from a program under which the project would be eligible, except that any amounts obligated to carry out the project shall be restored from funds allocated for the project."

Pub. L. 108-310, Sec. 2, Sept. 30, 2004, 118 Stat. 1144, as amended by Pub. L. 109-14, Sec. 2(a)-(b)(2), (d), May 31, 2005, 119 Stat. 324; Pub. L. 109-20, Sec. 2(a), (b)(1), (d), July 1, 2005, 119 Stat. 346; Pub. L. 109-35, Sec. 2(a), (b)(1), (d), July 20, 2005, 119 Stat. 379; Pub. L. 109-37, Sec. 2(a), (b)(1), (d), July 22, 2005, 119 Stat. 394; Pub. L. 109-40, Sec. 2(a), (b)(1), (d), July 28, 2005, 119 Stat. 410; Pub. L. 109-42, Sec. 2(b), July 30, 2005, 119 Stat. 435, provided that:

"(a) In General. -

"(1) Apportionment ratio. - Except as provided in paragraph (2), the Secretary of Transportation shall apportion funds made available under section 1101(l) of the Transportation Equity Act for the 21st Century [Pub. L. 105-178] (112 Stat. 111; 118 Stat. 876 [118 Stat. 1145]), as amended by this Act, the Surface Transportation Extension Act of 2005 [Pub. L. 109-14],, [sic] the Surface Transportation Extension Act of 2005, Part II [Pub. L. 109-20][,] the Surface Transportation Extension Act of 2005, Part III [Pub. L. 109-35], the Surface Transportation Extension Act of 2005, Part IV [Pub. L. 109-37], and the Surface Transportation Extension Act of 2005, Part V [Pub. L. 109-40], to each State in the ratio that -

"(A) the State's total fiscal year 2004 obligation authority for funds apportioned for the Federal-aid highway program; bears to

"(B) all States' total fiscal year 2004 obligation authority for funds apportioned for the Federal-aid highway program.

"(2) Exception. - The ratios determined under this subsection shall be subject to the same adjustments as the adjustments made under section 105(f) of title 23, United States Code.

"(b) Programmatic Distributions. -

"(1) Programs. - Of the funds to be apportioned to each State under subsection (a), the Secretary shall ensure that the State is apportioned an amount of the funds, determined under paragraph (2), for the Interstate maintenance program, the National Highway System program, the bridge program, the surface transportation program, the congestion mitigation and air quality improvement program, the recreational trails program, the Appalachian development highway system program, and the minimum guarantee.

"(2) In general. - The amount that each State shall be apportioned under this subsection for each item referred to in paragraph (1) shall be determined by multiplying -

"(A) the amount apportioned to the State under subsection (a); by

"(B) the ratio that -

"(i) the amount of funds apportioned for the item to the State for fiscal year 2004; bears to

"(ii) the total of the amount of funds apportioned for the items to the State for fiscal year 2004.

"(3) Administration of funds. - Funds authorized by section 1101(l) of the Transportation Equity Act for the 21st Century [Pub. L. 105-178, 118 Stat. 1145] shall be administered as if the

funds had been apportioned, allocated, deducted, or set aside, as the case may be, under title 23, United States Code; except that the deductions and set-asides in the following sections of such title shall not apply to such funds: sections 104(a)(1)(A), 104(a)(1)(B), 104(b)(1)(A), 104(d)(1), 104(d)(2), 104(f)(1), 104(h)(1), 118(c)(1), 140(b), 140(c), and 144(g)(1) [now 144(f)(1)].

"(4) Special rules for minimum guarantee. - In carrying out the minimum guarantee under section 105(c) of title 23, United States Code, with funds apportioned under this section for the minimum guarantee, the \$2,800,000,000 set forth in paragraph (1) of such section 105(c) shall be treated as being \$2,324,000,000 and the aggregate of amounts apportioned to the States under this section for the minimum guarantee shall be treated, for purposes of such section 105(c), as amounts made available under section 105 of such title.

"(5) Extension of off-system bridge setaside. - [Amended section 144 of this title.]

"(c) Repayment From Future Apportionments. -

"(1) In general. - The Secretary shall reduce the amount that would be apportioned, but for this section, to a State for programs under chapter 1 of title 23, United States Code, for fiscal year 2005, under a multiyear law reauthorizing the Federal-aid highway program enacted after the date of enactment of this Act [Sept. 30, 2004] by the amount that is apportioned to each State under subsection (a) and section 5(c) [118 Stat. 1150] for each such program.

"(2) Program category reconciliation. - The Secretary may establish procedures under which funds apportioned under subsection (a) for a program category for which funds are not authorized under a law described in paragraph (1) may be restored to the Federal-aid highway program.

"(d) Authorization of Contract Authority. - [Amended section 1101 of Pub. L. 105-178, 112 Stat. 111.]

"(e) Limitation on Obligations. -

"(1) Distribution of obligation authority. - Subject to paragraph (2), for the period of October 1, 2004, through July 30, 2005, the Secretary shall distribute the obligation limitation made available for Federal-aid highways and highway safety construction programs under the heading 'federal-aid highways' in title I of division H of the Consolidated Appropriations Act, 2005 [Pub. L. 108-447] (23 U.S.C. 104 note; 118 Stat. 3204), in accordance with section 110 of such title (23 U.S.C. 104 note; 118 Stat. 3209); except that the amount of obligation limitation to be distributed for such period for each program, project, and activity specified in sections 110(a)(1), 110(a)(2), 110(a)(4), and 110(a)(5) of such title shall equal the greater of -

"(A) the funding authorized for such program, project, or activity in this Act [see Short Title of 2004 Amendments note set out under section 101 of this title], the Surface Transportation Extension Act of 2005 [Pub. L. 109-14],, [sic] the Surface Transportation Extension Act of 2005, Part II [Pub. L. 109-20][,] the Surface Transportation Extension Act of 2005, Part III [Pub. L. 109-35], the Surface Transportation Extension Act of 2005, Part IV [Pub. L. 109-37], and the Surface Transportation Extension Act of 2005, Part V [Pub. L. 109-40] (including any amendments made by this Act and such Act[s]); or

"(B) 83 percent of the funding provided for or limitation set on such program, project, or activity in title I of division H of the Consolidated Appropriations Act, 2005 [Pub. L. 108-447,

see Tables for classification].

"(2) Limitation on total amount of authority distributed. - The total amount of obligation limitation distributed under paragraph (1) for the period of October 1, 2004, through July 30, 2005, shall not exceed \$28,801,000,000; except that this limitation shall not apply to \$530,370,000 in obligations for minimum guarantee for such period.

"(3) Time period for obligations of funds. - After August 14, 2005, no funds shall be obligated for any Federal-aid highway program project until the date of enactment of a law reauthorizing the Federal-aid highway program.

"(4) Treatment of obligations. - Any obligation of obligation authority distributed under this subsection shall be considered to be an obligation for Federal-aid highways and highway safety construction programs for fiscal year 2005 for the purposes of the matter under the heading 'federal-aid highways' in title I of division H of the Consolidated Appropriations Act, 2005 [Pub. L. 108-447] (23 U.S.C. 104 note; 118 Stat. 3204)."

Pub. L. 108-88, Sec. 2, Sept. 30, 2003, 117 Stat. 1110, as amended by Pub. L. 108-202, Sec. 2(a), (b)(1), (2), (d), Feb. 29, 2004, 118 Stat. 478; Pub. L. 108-224, Sec. 2(a), (b)(1), (d), Apr. 30, 2004, 118 Stat. 627; Pub. L. 108-263, Sec. 2(a), (b)(1), (d), June 30, 2004, 118 Stat. 698; Pub. L. 108-280, Secs. 2(a), (b)(1), (d), 3, July 30, 2004, 118 Stat. 876, 877; Pub. L. 108-310, Sec. 12(a), (c), (e)(1), Sept. 30, 2004, 118 Stat. 1161, 1162, provided that:

"(a) In General. - The Secretary of Transportation shall apportion funds made available under section 1101(c) of the Transportation Equity Act for the 21st Century [Pub. L. 105-178] (112 Stat. 116), as amended by this Act [117 Stat. 1111], the Surface Transportation Extension Act of 2004 [Pub. L. 108-202], the Surface Transportation Extension Act of 2004, Part II [Pub. L. 108-224], the Surface Transportation Extension Act of 2004, Part III [Pub. L. 108-263], the Surface Transportation Extension Act of 2004, Part IV [Pub. L. 108-280], and the Surface Transportation Extension Act of 2004, Part V [Pub. L. 108-310], to each State in the ratio that -

"(1) the State's total fiscal year 2003 obligation authority for funds apportioned for the Federal-aid highway program; bears to

"(2) all States' total fiscal year 2003 obligation authority for funds apportioned for the Federal-aid highway program.

"(b) Programmatic Distributions. -

"(1) Programs. - Of the funds to be apportioned to each State under subsection (a), the Secretary shall ensure that the State is apportioned an amount of the funds, determined under paragraph (2), for the Interstate maintenance program, the National Highway System program, the bridge program, the surface transportation program, the congestion mitigation and air quality improvement program, the recreational trails program, the Appalachian development highway system program, and the minimum guarantee.

"(2) In general. - The amount that each State shall be apportioned under this subsection for each item referred to in paragraph (1) shall be determined by multiplying -

"(A) the amount apportioned to the State under subsection (a); by

"(B) the ratio that -

"(i) the amount of funds apportioned for the item to the State for fiscal year 2003; bears to

"(ii) the total of the amount of funds apportioned for the items to the State for fiscal year 2003.

"(3) Administration of funds. - Funds authorized by section 1101(c) of the Transportation Equity Act for the 21st Century shall be administered as if the funds had been apportioned, allocated, deducted, or set aside, as the case may be, under title 23, United States Code; except that the deductions and set-asides in the following sections of such title shall not apply to such funds: sections 104(a)(1)(A), 104(a)(1)(B), 104(b)(1)(A), 104(d)(1), 104(d)(2), 104(f)(1), 104(h)(1), 118(c)(1), 140(b), 140(c), and 144(g)(1) [now 144(f)(1)].

"(4) Special rules for minimum guarantee. - In carrying out the minimum guarantee under section 105(c) of title 23, United States Code, with funds apportioned under this section for the minimum guarantee, the \$2,800,000,000 set forth in paragraph (1) of such section 105(c) shall be treated as being \$2,800,000,000 and the aggregate of amounts apportioned to the States under this section for the minimum guarantee shall be treated, for purposes of such section 105(c), as amounts made available under section 105 of such title.

"(5) Extension of off-system bridge setaside. - [Amended section 144 of this title.]

"[(c) Repealed. Pub. L. 108-310, Sec. 12(e)(1), Sept. 30, 2004, 118 Stat. 1162.]

"(d) Authorization of Contract Authority. - [Amended section 1101 of Pub. L. 105-178, 112 Stat. 111.]

"(e) Limitation on Obligations. -

"(1) Distribution of obligation authority. - For the fiscal year 2004, the Secretary shall distribute the obligation limitation made available for Federal-aid highways and highway safety construction programs under the heading 'Federal-aid highways' in the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (division F of Public Law 108-199; 118 Stat. 291 [290]; 118 Stat. 1013), in accordance with section 110 of such Act [23 U.S.C. 104 note].

"(2) Calculation of ratio. - For purposes of the calculation of the ratio under section 110(a)(3) of the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (division F of Public Law 108-199; 118 Stat. 291; 23 U.S.C. 104 note) -

"(A) the obligation limitation for Federal-aid Highways referred to in section 110(a)(3)(A) of such Act shall be deemed to be the obligation limitation for Federal-aid highways and highway safety construction programs for fiscal year 2004 identified under the heading 'Federal-Aid Highways' in such Act (118 Stat. 290); and

"(B) the total of sums authorized to be appropriated for Federal-aid highways and highway safety construction programs (other than sums authorized to be appropriated for sections set forth in paragraphs (1) through (7) of section 110(b) of such Act and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection 110(b)(8) of such Act) for such fiscal year, referred to in section 110(a)(3)(B) of such Act, shall be deemed to be \$34,606,000,000, less the aggregate of the amounts not distributed under section 110(a)(1) of such Act."

Section 2 of Pub. L. 105-130 provided that:

"(a) In General. - The Secretary of Transportation (referred to in this Act as the 'Secretary') shall apportion funds made available under section 1003(d) of the Intermodal Surface Transportation Efficiency Act of 1991 [see 111 Stat. 2553] to each State in the ratio that -

"(1) the State's total fiscal year 1997 obligation authority

for funds apportioned for the Federal-aid highway program; bears to

"(2) all States' total fiscal year 1997 obligation authority for funds apportioned for the Federal-aid highway program.

"(b) Programmatic Distributions. -

"(1) Programs. - Of the funds to be apportioned to each State under subsection (a), the Secretary shall ensure that the State is apportioned an amount of the funds, determined under paragraph (2), for the Interstate maintenance program, the National Highway System, the bridge program, the surface transportation program, the congestion mitigation and air quality improvement program, minimum allocation under section 157 of title 23, United States Code, Interstate reimbursement under section 160 of that title, the donor State bonus under section 1013(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1940) [Pub. L. 102-240, set out as a note under section 157 of this title], hold harmless under section 1015(a) of that Act (105 Stat. 1943) [set out below], 90 percent of payments adjustments under section 1015(b) of that Act (105 Stat. 1944) [set out below], section 1015(c) of that Act (105 Stat. 1944) [set out below], an amount equal to the funds provided under sections 1103 through 1108 of that Act (105 Stat. 2027) [see Tables for classification], and funding restoration under section 202 of the National Highway System Designation Act of 1995 (109 Stat. 571).

"(2) In general. - The amount that each State shall be apportioned under this subsection for each item referred to in paragraph (1) shall be determined by multiplying -

"(A) the amount apportioned to the State under subsection (a); by

"(B) the ratio that -

"(i) the amount of funds apportioned for the item, or allocated under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027), to the State for fiscal year 1997; bears to

"(ii) the total of the amount of funds apportioned for the items, and allocated under those sections, to the State for fiscal year 1997.

"(3) Use of funds. - Amounts apportioned to a State under subsection (a) attributable to sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 shall be available to the State for projects eligible for assistance under chapter 1 of title 23, United States Code.

"(4) Administration. - Funds authorized by the amendment made by subsection (d) shall be administered as if they had been apportioned, allocated, deducted, or set aside, as the case may be, under title 23, United States Code; except that the deduction under section 104(a) of title 23, United States Code, the set-asides under section 104(b)(1) of that title for the territories and under section 104(f)(1) of that title for metropolitan planning, and the expenditure required under section 104(d)(1) of that title shall not apply to those funds.

"(c) Repayment From Future Apportionments. -

"(1) In general. - The Secretary shall reduce the amount that would, but for this section, be apportioned to a State for programs under chapter 1 of title 23, United States Code, for fiscal year 1998 under a law reauthorizing the Federal-aid highway program enacted after the date of enactment of this Act [Dec. 1, 1997] by the amount that is apportioned to each State under subsection (a) and section 5(f) [Pub. L. 105-130, 111 Stat. 2558] for each such program.

"(2) Program category reconciliation. - The Secretary may

establish procedures under which funds apportioned under subsection (a) for a program category for which funds are not authorized under a law described in paragraph (1) may be restored to the Federal-aid highway program.

"(d) Authorization of Contract Authority. - [Amended section 1003 of Pub. L. 102-240.]

"(e) Limitation on Obligations. -

"(1) In general. - Subject to paragraph (2), after the date of enactment of this Act [Dec. 1, 1997], the Secretary shall allocate to each State an amount of obligation authority made available under the Department of Transportation and Related Agencies Appropriations Act, 1998 (Public Law 105-66 [see Tables for classification]) that is -

"(A) equal to the greater of -

"(i) the State's unobligated balance, as of October 1, 1997, of Federal-aid highway apportionments subject to any limitation on obligations; or

"(ii) 50 percent of the State's total fiscal year 1997 obligation authority for funds apportioned for the Federal-aid highway program; but

"(B) not greater than 75 percent of the State's total fiscal year 1997 obligation authority for funds apportioned for the Federal-aid highway program.

"(2) Limitation on amount. - The total of all allocations under paragraph (1) shall not exceed \$9,786,275,000.

"(3) Time period for obligations of funds. -

"(A) In general. - Except as provided in subparagraph (B), a State shall not obligate any funds for any Federal-aid highway program project after May 1, 1998, until the earlier of the date of enactment of a multiyear law reauthorizing the Federal-aid highway program or July 1, 1998.

"(B) Reobligation. - Subparagraph (A) shall not preclude the reobligation of previously obligated funds.

"(C) Distribution of remaining obligation authority. - On the earlier of the date of enactment of a law described in subparagraph (A) or July 1, 1998, the Secretary shall distribute to each State any remaining amounts of obligation authority for Federal-aid highways and highway safety construction programs by allocation in accordance with section 310(a) of the Department of Transportation and Related Agencies Appropriations Act, 1998 (Public Law 105-66) [set out below].

"(D) Contract authority. - No contract authority made available to the States prior to July 1, 1998, shall be obligated after that date until such time as a multiyear law reauthorizing the Federal-aid highway program has been enacted.

"(4) Treatment of obligations. - Any obligation of an allocation of obligation authority made under this subsection shall be considered to be an obligation for Federal-aid highways and highway safety construction programs for fiscal year 1998 for the purposes of the matter under the heading '(limitation on obligations)' under the heading 'Federal-Aid Highways' in title I of the Department of Transportation and Related Agencies Appropriations Act, 1998 (Public Law 105-66 [111 Stat. 1431])."

#### EFFECT OF LIMITATION ON APPORTIONMENT

Section 319(c) of Pub. L. 104-59 provided that: "Notwithstanding any other provision of law, for each of fiscal years 1996 and 1997, the amendments made by subsection (a) [amending this section and section 149 of this title] shall not affect any apportionment adjustments under section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1943) [Pub. L. 102-

240, set out below]."

#### COMPLETION OF INTERSTATE SYSTEM

Section 1001(a) of Pub. L. 102-240 provided that: "Congress declares that the authorizations of appropriations and apportionments for construction of the Dwight D. Eisenhower National System of Interstate and Defense Highways [now Dwight D. Eisenhower System of Interstate and Defense Highways] made by this section (including the amendments made by this section [amending this section and section 101 of this title]) are the final authorizations of appropriations and apportionments for completion of construction of such System."

#### APPORTIONMENT ADJUSTMENTS

Section 1015 of Pub. L. 102-240 provided that:

"(a) Hold Harmless. -

"(1) General rule. - The amount of funds which, but for this subsection, would be apportioned to a State for each of the fiscal years 1992 through 1997 under section 104(b)(3) of title 23, United States Code, for the surface transportation program shall be increased or decreased by an amount which, when added to or subtracted from the aggregate amount of funds apportioned to the State for such fiscal year and funds allocated to the State for the prior fiscal year under section 104(b) of such title, section 103(e)(4) for Interstate highway substitute, section 144 of such title, section 157 of such title, under section 202 of such title for the Federal lands highways program, section 160 of such title for the reimbursement program, and section 1013(c) of this Act [23 U.S.C. 157 note] for the donor State bonus program, will result in the percentage of amounts so apportioned and allocated to all States being equal to the percentage listed for such State in paragraph (2).

"(2) State percentages. - For purposes of paragraph (1) the percentage of amounts apportioned and allocated which are referred to in paragraph (1) for each State, and the District of Columbia shall be determined in accordance with the following table:

States	Adjustment Percentage
Alabama	1.74
Alaska	1.28
Arizona	1.49
Arkansas	1.20
California	9.45
Colorado	1.35
Connecticut	1.78
Delaware	0.41
District of Columbia	0.53
Florida	4.14
Georgia	2.97
Hawaii	0.57
Idaho	0.69
Illinois	3.72
Indiana	2.20
Iowa	1.25
Kansas	1.14
Kentucky	1.52
Louisiana	1.55
Maine	0.50
Maryland	1.69

Massachusetts	4.36
Michigan	2.81
Minnesota	1.58
Mississippi	1.15
Missouri	2.23
Montana	0.97
Nebraska	0.83
Nevada	0.64
New Hampshire	0.48
New Jersey	2.87
New Mexico	1.08
New York	5.37
North Carolina	2.65
North Dakota	0.62
Ohio	3.73
Oklahoma	1.42
Oregon	1.26
Pennsylvania	4.38
Rhode Island	0.54
South Carolina	1.41
South Dakota	0.71
Tennessee	2.08
Texas	6.36
Utah	0.77
Vermont	0.44
Virginia	2.27
Washington	2.06
West Virginia	0.94
Wisconsin	1.70
Wyoming	0.67

"(b) 90 Percent of Payment Adjustments. -

"(1) General rule. - For each of fiscal years 1992 through 1997, the Secretary shall allocate among the States amounts sufficient to ensure that a State's total apportionments for such fiscal year and allocations for the prior fiscal year under section 104(b) of such title, section 103(e)(4) for Interstate highway substitute, section 144 of such title, section 157 of such title, section 202 of such title for the Federal lands highways program, section 1013(c) of this Act [23 U.S.C. 157 note] for the donor State bonus program, section 160 of such title for the reimbursement program, and subsection (a) of this section for hold harmless is not less than 90 percent of the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than Mass Transit Account) in the latest fiscal year in which data is available.

"(2) Transfer of allocated amounts to stp apportionment. - Subject to subsection (d) of this section, the Secretary shall transfer amounts allocated to a State pursuant to paragraph (1) to the apportionment of such State under section 104(b)(3) for the surface transportation program.

"(c) Additional Allocation. - Subject to subsection (d) of this section, the Secretary shall allocate to the State of Wisconsin \$40,000,000 for fiscal year 1992 and \$47,800,000 for each of fiscal years 1993 through 1997 and transfer such amounts to the apportionment of such State under section 104(b)(3) of title 23, United States Code, for the surface transportation program.

"(d) Limitation on Applicability of Certain Requirements of STP Program. - The following provisions of section 133 of title 23, United States Code, shall not apply to 1/2 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, Sec. 325(g), Nov. 28, 1995, 109 Stat. 592, directed General Accounting Office in conjunction with Bureau of Transportation Statistics to conduct thorough study and recommend to Congress within 2 years after Dec. 18, 1991, a fair and equitable apportionment formula for allocation of Federal-aid highway funds that best directs highway funds to places of greatest need for highway maintenance and enhancement based on extent of these highway systems, their present use, and increases in their use, with results of study to be presented to Congress on or before Jan. 1, 1994, and to be considered by Congress in the 1996 reauthorization of surface transportation program.

#### STUDY ON IMPACT OF CLIMATIC CONDITIONS

Pub. L. 102-240, title I, Secs. 1101-1102, Dec. 18, 1991, 105 Stat. 2027, directed Secretary of Transportation to conduct a study of effects of climatic conditions on costs of highway construction and maintenance and to transmit to Congress, not later than Sept. 30, 1993, a report on the results of the study, prior to repeal by Pub. L. 105-362, title XV, Sec. 1501(d), Nov. 10, 1998, 112 Stat. 3294.

#### WITHHOLDING OF FIVE PER CENTUM OF FUNDS FOR STATES FAILING TO MEET REQUIREMENTS

Section 333 [part] of Pub. L. 101-516, which for each fiscal year directed Secretary of Transportation to withhold five per centum of the amount required to be apportioned to any State under each of paragraphs (1), (2), (5), and (6) of section 104(b) of this title on the first day of each fiscal year which begins after the second full calendar year following Nov. 5, 1990, if State does not meet the requirements of paragraph (3) on such date, was repealed by Pub. L. 102-143, title III, Sec. 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, Sec. 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, Sec. 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, Sec. 329, Nov. 5, 1990, 104 Stat. 2183, which was repealed by Pub. L. 102-27, title IV, Sec. 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, Sec. 108(a)-(e), Jan. 6, 1983, 96 Stat. 2103, as amended by Pub. L. 100-17, title I, Secs. 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, Sec. 145, Jan. 6, 1983, 96 Stat. 2130, provided that:

"(a) Notwithstanding any other provision of law, the Federal share of any qualifying project approved by the Secretary of Transportation under section 106(a) [section 106(a) of this title], and of any qualifying project for which the United States becomes obligated to pay under section 117, of title 23, United States Code, during the period beginning on the date of enactment of this

Act [Jan. 6, 1983] and ending September 30, 1984, shall be such percentage of the construction cost as the State highway department requests, up to and including 100 per centum.

"(b) For purposes of this section, the term 'qualifying project' means a project approved by the Secretary of Transportation under section 106(a) of title 23, United States Code, or a project for which the United States becomes obligated to pay under section 117 of title 23, United States Code, for which the Governor of the State submitting the project has certified, in accordance with regulations established by the Secretary of Transportation, that sufficient funds are not available to pay the cost of the non-Federal share of the project.

"(c) The total amount which may be obligated for qualifying projects in any State under subsection (a) shall not be greater than the excess of -

"(1) the sum of the amount of obligation authority distributed to such State for fiscal year 1983 under section 104(b) of this Act [set out above], plus the amount, if any, available to such State under section 150 of this Act [enacting section 157 of this title], pertaining to minimum allocation, over

"(2) the amount of obligation authority distributed to such State for fiscal year 1982 under section 3(b) of the Federal-Aid Highway Act of 1981 [set out below].

"(d) The total amount of such increases in the Federal share as are made pursuant to subsection (a) for any State shall be repaid to the United States by such State on or before September 30, 1984. Such payments shall be deposited in the Highway Trust Fund and such repaid amounts shall be credited to the appropriate apportionment accounts of such State.

"(e) If a State has not made the repayment as required by subsection (d) of this section, the Secretary shall deduct from funds apportioned to such State under section 104(b) of title 23, United States Code, except for paragraph (5)(A), in each of the fiscal years ending September 30, 1985, and September 30, 1986, a pro rata share of each category of such apportioned funds, the total amount of which shall be equal to 50 per centum of the amount needed for repayment. Any amount deducted under this subsection shall be reapportioned for the fiscal years 1985 and 1986 in accordance with section 104(b)(1) of title 23, United States Code, to those States which have not received a higher Federal share under this section and to those States which have made the repayment required by subsection (d)."

FEDERAL-AID HIGHWAYS AND HIGHWAY SAFETY CONSTRUCTION PROGRAMS;  
MAXIMUM LIMITS ON TOTAL OBLIGATIONS; EXCEPTIONS; STATE ALLOCATIONS

Pub. L. 109-59, title I, Sec. 1102, Aug. 10, 2005, 119 Stat. 1157, as amended by Pub. L. 110-244, title I, Sec. 101(b), June 6, 2008, 122 Stat. 1573, provided that:

"(a) General Limitation. - Subject to subsections (g) and (h), and notwithstanding any other provision of law, the obligations for Federal-aid highway and highway safety construction programs shall not exceed -

"(1) \$34,422,400,000 for fiscal year 2005;

"(2) \$36,032,343,903 for fiscal year 2006;

"(3) \$38,244,210,516 for fiscal year 2007;

"(4) \$39,585,075,404 for fiscal year 2008; and

"(5) \$41,199,970,178 for fiscal year 2009.

"(b) Exceptions. - The limitations under subsection (a) shall not apply to obligations under or for -

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

"(2) section 147 of the Surface Transportation Assistance Act

of 1978 [Pub. L. 95-599] (formerly 23 U.S.C. 144 note; 92 Stat. 2714);

"(3) section 9 of the Federal-Aid Highway Act of 1981 (Public Law 97-134; 95 Stat. 1701);

"(4) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 (Public Law 97-424; 96 Stat. 2119);

"(5) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17; 101 Stat. 198);

"(6) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2027) [see Tables for classification];

"(7) section 157 of title 23, United States Code (as in effect on June 8, 1998);

"(8) section 105 of title 23, United States Code (as in effect for fiscal years 1998 through 2004, but only in an amount equal to \$639,000,000 for each of those fiscal years);

"(9) Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century (Public Law 105-178; 112 Stat. 107) [see Tables for classification] or subsequent public laws for multiple years or to remain available until used, but only to the extent that the obligation authority has not lapsed or been used;

"(10) section 105 of title 23, United States Code (but, for each of fiscal years 2005 through 2009, only in an amount equal to \$639,000,000 per fiscal year); and

"(11) section 1603 of this Act [set out as a note under section 118 of this title], to the extent that funds obligated in accordance with that section were not subject to a limitation on obligations at the time at which the funds were initially made available for obligation.

"(c) Distribution of Obligation Authority. - For each of fiscal years 2005 through 2009, the Secretary [of Transportation] -

"(1) shall not distribute obligation authority provided by subsection (a) for the fiscal year for -

"(A) amounts authorized for administrative expenses and programs by section 104(a) of title 23, United States Code;

"(B) programs funded from the administrative takedown authorized by section 104(a)(1) of title 23, United States Code (as in effect on the date before the date of enactment of this Act [Aug. 10, 2005]); and

"(C) amounts authorized for the highway use tax evasion program and the Bureau of Transportation Statistics;

"(2) shall not distribute an amount of obligation authority provided by subsection (a) that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety programs for previous fiscal years the funds for which are allocated by the Secretary;

"(3) shall determine the ratio that -

"(A) the obligation authority provided by subsection (a) for the fiscal year, less the aggregate of amounts not distributed under paragraphs (1) and (2); bears to

"(B) the total of the sums authorized to be appropriated for the Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for provisions of law described in paragraphs (1) through (9) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(10) for the fiscal year),

less the aggregate of the amounts not distributed under paragraphs (1) and (2);

"(4)(A) shall distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2), for sections 1301, 1302, and 1934 of this Act [see Tables for classification], sections 117 [(]but individually for each of [sic] project numbered 1 through 3676 listed in the table contained in section 1702 of this Act [119 Stat. 1256][)] and 144(g) [now 144(f)] of title 23, United States Code, and section 14501 of title 40, United States Code, and, during fiscal year 2005, amounts for programs, projects, and activities authorized by section 117 of title I of division H of the Consolidated Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 3212), so that the amount of obligation authority available for each of such sections is equal to the amount determined by multiplying -

"(i) the ratio determined under paragraph (3); by

"(ii) the sums authorized to be appropriated for that section for the fiscal year; and

"(B) shall distribute \$2,000,000,000 for section 105 of title 23, United States Code;

"(5) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2), for each of the programs that are allocated by the Secretary under this Act [see Tables for classification] and title 23, United States Code (other than to programs to which paragraph (1) applies), by multiplying -

"(A) the ratio determined under paragraph (3); by

"(B) the amounts authorized to be appropriated for each such program for the fiscal year; and

"(6) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2) and the amounts distributed under paragraphs (4) and (5), for Federal-aid highway and highway safety construction programs (other than the amounts apportioned for the equity bonus program, but only to the extent that the amounts apportioned for the equity bonus program for the fiscal year are greater than \$2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under this Act and title 23, United States Code, in the ratio that -

"(A) amounts authorized to be appropriated for the programs that are apportioned to each State for the fiscal year; bear to

"(B) the total of the amounts authorized to be appropriated for the programs that are apportioned to all States for the fiscal year.

"(d) Redistribution of Unused Obligation Authority. -

Notwithstanding subsection (c), the Secretary [of Transportation] shall, after August 1 of each of fiscal years 2005 through 2009 -

"(1) revise a distribution of the obligation authority made available under subsection (c) if an amount distributed cannot be obligated during that fiscal year; and

"(2) redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year, giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code.

"(e) Applicability of Obligation Limitations to Transportation Research Programs. -

"(1) In general. - Except as provided in paragraph (2), obligation limitations imposed by subsection (a) shall apply to

contract authority for transportation research programs carried out under -

"(A) chapter 5 of title 23, United States Code; and

"(B) title V (research title) of this Act [see Tables for classification].

"(2) Exception. - Obligation authority made available under paragraph (1) shall -

"(A) remain available for a period of 3 fiscal years; and

"(B) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

"(f) Redistribution of Certain Authorized Funds. -

"(1) In general. - Not later than 30 days after the date of distribution of obligation authority under subsection (c) for each of fiscal years 2005 through 2009, the Secretary [of Transportation] shall distribute to the States any funds that -

"(A) are authorized to be appropriated for the fiscal year for Federal-aid highway programs; and

"(B) the Secretary determines will not be allocated to the States, and will not be available for obligation, in the fiscal year due to the imposition of any obligation limitation for the fiscal year.

"(2) Ratio. - Funds shall be distributed under paragraph (1) in the same ratio as the distribution of obligation authority under subsection (c)(6).

"(3) Availability. - Funds distributed under paragraph (1) shall be available for any purpose described in section 133(b) of title 23, United States Code.

"(g) Special Limitation Characteristics. - Obligation authority distributed for a fiscal year under subsection (c)(4) for the provision specified in subsection (c)(4) shall -

"(1) remain available until used for obligation of funds for that provision; and

"(2) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

"(h) Adjustment in Obligation Limit. -

"(1) In general. - Subject to the last sentence of section 110(a)(2) of title 23, United States Code, a limitation on obligations imposed by subsection (a) for a fiscal year shall be adjusted by an amount equal to the amount determined in accordance with section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(B)) for the fiscal year.

"(2) Distribution. - An adjustment under paragraph (1) shall be distributed in accordance with this section.

"(i) Special Rule for Fiscal Year 2005. -

"(1) In general. - Obligation authority distributed under subsection (c)(4) for fiscal year 2005 for sections 1301, 1302, and 1934 of this Act [see Tables for classification] and sections 117 and 144(g) [now 144(f)] of title 23, United States Code, may be used in fiscal year 2005 for purposes of obligation authority distributed under subsection (c)(6).

"(2) Restoration. - Obligation authority used as described in paragraph (1) shall be restored to the original purpose on the date on which obligation authority is distributed under this section for fiscal year 2006.

"(j) High Priority Project Flexibility. -

"(1) In general. - Subject to paragraph (2), obligation authority distributed for a fiscal year under subsection (c)(4) for each project numbered 1 through 3676 listed in the table

contained in section 1702 of this Act [119 Stat. 1256] may be obligated for any other project in such section in the same State.

"(2) Restoration. - Obligation authority used as described in paragraph (1) shall be restored to the original purpose on the date on which obligation authority is distributed under this section for the next fiscal year following obligation under paragraph (1).

"(k) Limitation on Statutory Construction. - Nothing in this section shall be construed to limit the distribution of obligation authority under subsection (c)(4)(A) for each of the individual projects numbered greater than 3676 listed in the table contained in section 1702 of this Act [119 Stat. 1256]."

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

Pub. L. 105-178, title I, Sec. 1102, June 9, 1998, 112 Stat. 115, as amended by Pub. L. 105-206, title IX, Sec. 9002(b), July 22, 1998, 112 Stat. 834; Pub. L. 106-159, title I, Sec. 103(b)(2), Dec. 9, 1999, 113 Stat. 1753.

Pub. L. 111-117, div. A, title I, Dec. 16, 2009, 123 Stat. 3044, provided in part that: "None of the funds in this Act [div. A of Pub. L. 111-117, see Tables for classification] shall be available for the implementation or execution of programs, the obligations for which are in excess of \$41,107,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 2010".

Pub. L. 111-117, div. A, title I, Sec. 120, Dec. 16, 2009, 123 Stat. 3045, provided that:

"(a) For fiscal year 2010, the Secretary of Transportation shall -

"(1) not distribute from the obligation limitation for Federal-aid highways amounts authorized for administrative expenses and programs by section 104(a) of title 23, United States Code; programs funded from the administrative takedown authorized by section 104(a)(1) of title 23, United States Code (as in effect on the date before the date of enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users [Aug. 10, 2005]); the highway use tax evasion program; and the Bureau of Transportation Statistics;

"(2) not distribute an amount from the obligation limitation for Federal-aid highways that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highways and highway safety programs for previous fiscal years the funds for which are allocated by the Secretary;

"(3) determine the ratio that -

"(A) the obligation limitation for Federal-aid highways, less the aggregate of amounts not distributed under paragraphs (1) and (2), bears to

"(B) the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction programs (other than sums authorized to be appropriated for provisions of law described in paragraphs (1) through (9) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(10) for such fiscal year), less the aggregate of the amounts not distributed under paragraphs (1) and (2) of this subsection;

"(4)(A) distribute the obligation limitation for Federal-aid highways, less the aggregate amounts not distributed under paragraphs (1) and (2), for sections 1301 [set out as a note under section 101 of this title], 1302 [set out as a note under



section 101 of this title], and 1934 [119 Stat. 1485] of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users [Pub. L. 109-59]; sections [sic] 117 (but individually for each project numbered 1 through 3676 listed in the table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users [119 Stat. 1256]) and section 144(g) [now 144(f)] of title 23, United States Code; and section 14501 of title 40, United States Code, so that the amount of obligation authority available for each of such sections is equal to the amount determined by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for that section for the fiscal year; and

"(B) distribute \$2,000,000,000 for section 105 of title 23, United States Code;

"(5) distribute the obligation limitation provided for Federal-aid highways, less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraph (4), for each of the programs that are allocated by the Secretary under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users [Pub. L. 109-59, see Tables for classification] and title 23, United States Code (other than to programs to which paragraphs (1) and (4) apply), by multiplying the ratio determined under paragraph (3) by the amounts authorized to be appropriated for each such program for such fiscal year; and

"(6) distribute the obligation limitation provided for Federal-aid highways, less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraphs (4) and (5), for Federal-aid highways and highway safety construction programs (other than the amounts apportioned for the equity bonus program, but only to the extent that the amounts apportioned for the equity bonus program for the fiscal year are greater than \$2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users and title 23, United States Code, in the ratio that -

"(A) amounts authorized to be appropriated for such programs that are apportioned to each State for such fiscal year, bear to

"(B) the total of the amounts authorized to be appropriated for such programs that are apportioned to all States for such fiscal year.

"(b) Exceptions From Obligation Limitation. - The obligation limitation for Federal-aid highways shall not apply to obligations: (1) under section 125 of title 23, United States Code; (2) under section 147 of the Surface Transportation Assistance Act of 1978 [Pub. L. 95-599, formerly set out as a note under section 144 of this title]; (3) under section 9 of the Federal-Aid Highway Act of 1981 [Pub. L. 97-134, 95 Stat. 1701]; (4) under subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 [Pub. L. 97-424, 96 Stat. 2119, 2123]; (5) under subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 [Pub. L. 100-17, 101 Stat. 198, 200]; (6) under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 [Pub. L. 102-240, see Tables for classification]; (7) under section 157 of title 23, United States Code, as in effect on the day before the date of the enactment of the Transportation Equity Act for the 21st Century [June 9, 1998]; (8) under section 105 of title 23, United

States Code, as in effect for fiscal years 1998 through 2004, but only in an amount equal to \$639,000,000 for each of those fiscal years; (9) for Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century [Pub. L. 105-178, see Tables for classification] or subsequent public laws for multiple years or to remain available until used, but only to the extent that the obligation authority has not lapsed or been used; (10) under section 105 of title 23, United States Code, but only in an amount equal to \$639,000,000 for each of fiscal years 2005 through 2010; and (11) under section 1603 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users [Pub. L. 109-59, set out as a note under section 118 of this title], to the extent that funds obligated in accordance with that section were not subject to a limitation on obligations at the time at which the funds were initially made available for obligation.

"(c) Redistribution of Unused Obligation Authority. - Notwithstanding subsection (a), the Secretary shall, after August 1 of such fiscal year, revise a distribution of the obligation limitation made available under subsection (a) if the amount distributed cannot be obligated during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year, giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code.

"(d) Applicability of Obligation Limitations to Transportation Research Programs. - The obligation limitation shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code, and title V (research title) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users [Pub. L. 109-59, see Tables for classification], except that obligation authority made available for such programs under such limitation shall remain available for a period of 3 fiscal years and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

"(e) Redistribution of Certain Authorized Funds. -

"(1) In general. - Not later than 30 days after the date of the distribution of obligation limitation under subsection (a), the Secretary shall distribute to the States any funds that -

"(A) are authorized to be appropriated for such fiscal year for Federal-aid highways programs; and

"(B) the Secretary determines will not be allocated to the States, and will not be available for obligation, in such fiscal year due to the imposition of any obligation limitation for such fiscal year.

"(2) Ratio. - Funds shall be distributed under paragraph (1) in the same ratio as the distribution of obligation authority under subsection (a)(6).

"(3) Availability. - Funds distributed under paragraph (1) shall be available for any purposes described in section 133(b) of title 23, United States Code.

"(f) Special Limitation Characteristics. - Obligation limitation distributed for a fiscal year under subsection (a)(4) for the provision specified in subsection (a)(4) shall -

"(1) remain available until used for obligation of funds for that provision; and

"(2) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

"(g) High Priority Project Flexibility. -

"(1) In general. - Subject to paragraph (2), obligation authority distributed for such fiscal year under subsection (a)(4) for each project numbered 1 through 3676 listed in the table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users [119 Stat. 1256] may be obligated for any other project in such section in the same State.

"(2) Restoration. - Obligation authority used as described in paragraph (1) shall be restored to the original purpose on the date on which obligation authority is distributed under this section for the next fiscal year following obligation under paragraph (1).

"(h) Limitation on Statutory Construction. - Nothing in this section shall be construed to limit the distribution of obligation authority under subsection (a)(4)(A) for each of the individual projects numbered greater than 3676 listed in the table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users [119 Stat. 1256]."

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

Pub. L. 111-8, div. I, title I, Mar. 11, 2009, 123 Stat. 923.

Pub. L. 111-8, div. I, title I, Sec. 120, Mar. 11, 2009, 123 Stat. 924.

Pub. L. 110-161, div. K, title I, Dec. 26, 2007, 121 Stat. 2383.

Pub. L. 110-161, div. K, title I, Sec. 120, Dec. 26, 2007, 121 Stat. 2385.

Pub. L. 109-115, div. A, title I, Nov. 30, 2005, 119 Stat. 2402.

Pub. L. 109-115, div. A, title I, Sec. 110, Nov. 30, 2005, 119 Stat. 2403.

Pub. L. 108-447, div. H, title I, Dec. 8, 2004, 118 Stat. 3204.

Pub. L. 108-447, div. H, title I, Sec. 110, Dec. 8, 2004, 118 Stat. 3209.

Pub. L. 108-199, div. F, title I, Jan. 23, 2004, 118 Stat. 285.

Pub. L. 108-199, div. F, title I, Sec. 110, Jan. 23, 2004, 118 Stat. 290, as amended by Pub. L. 108-202, Sec. 8(b), Feb. 29, 2004, 118 Stat. 484; Pub. L. 108-287, title X, Sec. 14003(a) Aug. 5, 2004, 118 Stat. 1013.

Pub. L. 108-7, div. I, title I, title III, Sec. 310, Feb. 20, 2003, 117 Stat. 393, 407.

Pub. L. 107-87, title I, title III, Sec. 310, Dec. 18, 2001, 115 Stat. 841, 855.

Pub. L. 106-346, Sec. 101(a) [title I, title III, Sec. 310], Oct. 23, 2000, 114 Stat. 1356, 1356A-7, 1356A-24.

Pub. L. 106-69, title I, title III, Sec. 310, Oct. 9, 1999, 113 Stat. 994, 1016.

Pub. L. 105-277, div. A, Sec. 101(g) [title I, title III, Sec. 310], Oct. 21, 1998, 112 Stat. 2681-439, 2681-446, 2681-465.

Pub. L. 105-66, title I, title III, Sec. 310, Oct. 27, 1997, 111 Stat. 1431, 1442.

Pub. L. 104-205, title I, title III, Sec. 310, Sept. 30, 1996, 110 Stat. 2958, 2969.

Pub. L. 104-50, title I, title III, Sec. 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, Sec. 310, Sept. 30, 1994, 108 Stat. 2489, as amended by Pub. L. 104-59, title III, Sec. 338(c)(3), Nov. 28, 1995, 109 Stat. 605.

Pub. L. 103-122, title I, title III, Sec. 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, Sec. 310, Oct. 6, 1992, 106 Stat. 1528, 1544.

Pub. L. 102-240, title I, Sec. 1002(a)-(g), Dec. 18, 1991, 105 Stat. 1916-1918.

Pub. L. 102-143, title I, title III, Sec. 310, Oct. 28, 1991, 105 Stat. 925, 940.

Pub. L. 101-516, title I, title III, Sec. 310, Nov. 5, 1990, 104 Stat. 2163, 2179.

Pub. L. 101-164, title I, title III, Sec. 310, Nov. 21, 1989, 103 Stat. 1077, 1092.

Pub. L. 100-457, title I, title III, Sec. 310, Sept. 30, 1988, 102 Stat. 2132, 2146.

Pub. L. 100-202, Sec. 101(l) [title I, title III, Sec. 310], Dec. 22, 1987, 101 Stat. 1329-358, 1329-365, 1329-378.

Pub. L. 100-17, title I, Sec. 105(a)-(g), Apr. 2, 1987, 101 Stat. 142-144.

Pub. L. 99-500, Sec. 101(l) [H.R. 5205, title I, title III, Sec. 313(a)-(d)], Oct. 18, 1986, 100 Stat. 1783-308, and Pub. L. 99-591, Sec. 101(l) [H.R. 5205, title I, title III, Sec. 313(a)-(d)], Oct. 30, 1986, 100 Stat. 3341-308.

Pub. L. 99-272, title IV, Sec. 4102(a)-(e), Apr. 7, 1986, 100 Stat. 112, 113.

Pub. L. 99-190, Sec. 101(e) [title I, title III, Sec. 313], Dec. 19, 1985, 99 Stat. 1267, 1275, 1285.

Pub. L. 98-473, title I, Sec. 101(i) [title I, title III, Sec. 315], Oct. 12, 1984, 98 Stat. 1944, 1951, 1962.

Pub. L. 98-78, title I, title III, Sec. 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, Sec. 104(a)-(d), Jan. 6, 1983, 96 Stat. 2098.

Pub. L. 97-134, Sec. 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, Sec. 1106, Aug. 13, 1981, 95 Stat. 624, as amended by Pub. L. 97-424, title I, Sec. 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, Sec. 1001(b), Dec. 18, 1991, 105 Stat. 1915.

Pub. L. 100-17, title I, Sec. 102(a), Apr. 2, 1987, 101 Stat. 135.

Pub. L. 99-104, Sec. 1, Sept. 30, 1985, 99 Stat. 474.

Pub. L. 99-4, Sec. 1, Mar. 13, 1985, 99 Stat. 6.

Pub. L. 98-229, Sec. 1, Mar. 9, 1984, 98 Stat. 55.

Pub. L. 97-327, Sec. 3, Oct. 15, 1982, 96 Stat. 1611.

Pub. L. 97-134, Sec. 2, Dec. 29, 1981, 95 Stat. 1699.

Pub. L. 96-144, Sec. 1, Dec. 13, 1979, 93 Stat. 1084.

Pub. L. 95-599, title I, Sec. 103, Nov. 6, 1978, 92 Stat. 2689.

Pub. L. 94-280, title I, Sec. 103, May 5, 1976, 90 Stat. 426.  
Pub. L. 93-87, title I, Sec. 103, Aug. 13, 1973, 87 Stat. 250.  
Pub. L. 91-605, title I, Sec. 103, Dec. 31, 1970, 84 Stat. 1714.  
Pub. L. 90-495, Sec. 3, Aug. 23, 1968, 82 Stat. 815.  
Pub. L. 89-574, Sec. 3, Sept. 13, 1966, 80 Stat. 766.  
Pub. L. 89-139, Sec. 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, Sec. 102(c), Apr. 2, 1987, 101 Stat. 135, as amended by Pub. L. 102-240, title I, Sec. 1001(h), Dec. 18, 1991, 105 Stat. 1916.  
Pub. L. 97-424, title I, Sec. 103(a), Jan. 6, 1983, 96 Stat. 2097.  
Pub. L. 97-327, Sec. 4(b), Oct. 15, 1982, 96 Stat. 1612; repealed  
Pub. L. 97-424, title I, Sec. 103(b), Jan. 6, 1983, 96 Stat. 2098.  
Pub. L. 95-599, title I, Sec. 104(b)(1), Nov. 6, 1978, 92 Stat. 2691.  
Pub. L. 94-280, title I, Sec. 105(b)(1), May 5, 1976, 90 Stat. 428.  
Pub. L. 93-87, title I, Sec. 104(b), Aug. 13, 1973, 87 Stat. 252.  
Pub. L. 91-605, title I, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 8, Apr. 16, 1958, 72 Stat. 94, as amended by Pub. L. 85-899, Sec. 1, Sept. 2, 1958, 72 Stat. 1725; Pub. L. 86-342, title I, Sec. 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, Sec. 108(d), 70 Stat. 379, as amended by act Sept. 2, 1958, Pub. L. 85-899, Sec. 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.

-FOOTNOTE-

(!1) See References in Text note below.

-End-

-CITE-

-EXPCITE-

TITLE 23 - HIGHWAYS  
CHAPTER 1 - FEDERAL-AID HIGHWAYS

-HEAD-

Sec. 105. Equity bonus program

-STATUTE-

(a) Program. -

(1) In general. - Subject to subsections (c) and (d), for each of fiscal years 2005 through 2009, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of the total apportionments for the fiscal year for the programs specified in paragraph (2) that is less than the percentage calculated under subsection (b).

(2) Specific programs. - The programs referred to in subsection (a) are -

- (A) the Interstate maintenance program under section 119;
- (B) the national highway system program under section 103;
- (C) the highway bridge program under section 144;
- (D) the surface transportation program under section 133;
- (E) the highway safety improvement program under section 148;
- (F) the congestion mitigation and air quality improvement program under section 149;
- (G) metropolitan planning programs under section 104(f);
- (H) the high priority projects program under section 117;
- (I) the equity bonus program under this section;
- (J) the Appalachian development highway system program under subtitle IV of title 40;
- (K) the recreational trails program under section 206;
- (L) the safe routes to school program under section 1404 of the SAFETEA-LU;
- (M) the rail-highway grade crossing program under section 130; and
- (N) the coordinated border infrastructure program under section 1303 of the SAFETEA-LU.

(b) State Percentage. -

(1) In general. - The percentage referred to in subsection (a) for each State shall be -

(A) for each of fiscal years 2005 and 2006, 90.5 percent, for fiscal year 2007, 91.5 percent, and for each of fiscal years 2008 and 2009, 92 percent, of the quotient obtained by dividing

-

(i) the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available; by

(ii) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year; or

(B) for a State with a total population density of less than 40 persons per square mile (as reported in the decennial census conducted by the Federal Government in 2000) and of which at least 1.25 percent of the total acreage is under Federal jurisdiction, based on the report of the General Services Administration entitled "Federal Real Property Profile" and dated September 30, 2004, a State with a total population of

less than 1,000,000 (as reported in that decennial census), a State with a median household income of less than \$35,000 (as reported in that decennial census), a State with a fatality rate during 2002 on Interstate highways that is greater than one fatality for each 100,000,000 vehicle miles traveled on Interstate highways, or a State with an indexed, State motor fuels excise tax rate higher than 150 percent of the Federal motor fuels excise tax rate as of the date of enactment of the SAFETEA-LU, the greater of -

- (i) the applicable percentage under subparagraph (A); or
- (ii) the average percentage of the State's share of total apportionments for the period of fiscal years 1998 through 2003 for the programs specified in paragraph (2).

(2) Specific programs. - The programs referred to in paragraph (1)(B)(ii) are (as in effect on the day before the date of enactment of the SAFETEA-LU) -

- (A) the Interstate maintenance program under section 119;
- (B) the national highway system program under section 103;
- (C) the highway bridge program under section 144;
- (D) the surface transportation program under section 133;
- (E) the recreational trails program under section 206;
- (F) the high priority projects program under section 117;
- (G) the minimum guarantee provided under this section;
- (H) revenue aligned budget authority amounts provided under section 110;
- (I) the congestion mitigation and air quality improvement program under section 149;
- (J) the Appalachian development highway system program under subtitle IV of title 40; and
- (K) metropolitan planning programs under section 104(f).

(c) Special Rules. -

(1) Minimum combined allocation. - For each fiscal year, before making the allocations under subsection (a)(1), the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a combined total of amounts allocated under subsection (a)(1), apportionments for the programs specified in subsection (a)(2), and amounts allocated under this subsection, that is less than the following percentages of the average for fiscal years 1998 through 2003 of the annual apportionments for the State for all programs specified in subsection (b)(2):

- (A) For fiscal year 2005, 117 percent.
- (B) For fiscal year 2006, 118 percent.
- (C) For fiscal year 2007, 119 percent.
- (D) For fiscal year 2008, 120 percent.
- (E) For fiscal year 2009, 121 percent.

(2) No negative adjustment. - No negative adjustment shall be made under subsection (a)(1) to the apportionment of any State.

(d) Treatment of Funds. -

(1) Programmatic distribution. - The Secretary shall apportion the amounts made available under this section that exceed \$2,639,000,000 so that the amount apportioned to each State under this paragraph for each program referred to in subparagraphs (A) through (F) of subsection (a)(2) is equal to the amount determined by multiplying the amount to be apportioned under this paragraph by the ratio that -

- (A) the amount of funds apportioned to each State for each program referred to in subparagraphs (A) through (F) of



subsection (a)(2) for a fiscal year; bears to

(B) the total amount of funds apportioned to such State for all such programs for such fiscal year.

(2) Remaining distribution. - The Secretary shall administer the remainder of funds made available under this section to the States in accordance with section 104(b)(3), except that paragraphs (1) through (3) of section 133(d) shall not apply to amounts administered pursuant to this paragraph.

(e) Metro Planning Set Aside. - Notwithstanding section 104(f), no set aside provided for under that section shall apply to funds allocated under this section.

(f) Authorization of Appropriations. - There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this section for each of fiscal years 2005 through 2009.

-SOURCE-

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 891; Pub. L. 86-624, Sec. 17(b), July 12, 1960, 74 Stat. 415; Pub. L. 89-564, title II, Sec. 206, Sept. 9, 1966, 80 Stat. 736; Pub. L. 91-605, title I, Secs. 106(d), 132, Dec. 31, 1970, 84 Stat. 1717, 1732; Pub. L. 93-87, title I, Sec. 109(b), Aug. 13, 1973, 87 Stat. 255; Pub. L. 95-599, title I, Secs. 111, 112, Nov. 6, 1978, 92 Stat. 2696; Pub. L. 97-424, title I, Sec. 109(a), Jan. 6, 1983, 96 Stat. 2104; Pub. L. 102-240, title I, Sec. 1105(g)(7), Dec. 18, 1991, 105 Stat. 2036; Pub. L. 105-178, title I, Sec. 1104(a), (c), June 9, 1998, 112 Stat. 127; Pub. L. 105-206, title IX, Sec. 9002(d), July 22, 1998, 112 Stat. 835; Pub. L. 109-59, title I, Sec. 1104(a), Aug. 10, 2005, 119 Stat. 1163; Pub. L. 110-244, title I, Sec. 101(m)(3)(B), June 6, 2008, 122 Stat. 1576.)

-REFTEXT-

REFERENCES IN TEXT

Section 1404 of the SAFETEA-LU, referred to in subsec. (a)(2)(L), is section 1404 of Pub. L. 109-59, which is set out as a note under section 402 of this title.

Section 1303 of the SAFETEA-LU, referred to in subsec. (a)(2)(N), is section 1303 of Pub. L. 109-59, which is set out as a note under section 101 of this title.

The date of enactment of the SAFETEA-LU, referred to in subsec. (b)(1)(B), (2), is the date of enactment of Pub. L. 109-59, which was approved Aug. 10, 2005.

-MISC1-

AMENDMENTS

2008 - Subsecs. (a)(2)(C), (b)(2)(C). Pub. L. 110-244 struck out "replacement and rehabilitation" after "highway bridge".

2005 - Pub. L. 109-59 amended section catchline and text generally, substituting provisions relating to equity bonus program for allocating amounts among the States for each of fiscal years 2005 through 2009 for provisions relating to minimum guarantee to each State of funds apportioned under this chapter for each of fiscal years 1998 through 2003.

1998 - Pub. L. 105-178 amended section catchline and text generally, substituting provisions relating to minimum guarantee to each State of funds apportioned under chapter for provisions relating to programs to be submitted by State highway departments for approval by Secretary for utilization of funds apportioned

under chapter.

Subsec. (a). Pub. L. 105-178, Sec. 1104(c)(1), as added by Pub. L. 105-206, Sec. 9002(d), inserted at end "The minimum amount allocated to a State under this section for a fiscal year shall be \$1,000,000."

Subsec. (c)(1). Pub. L. 105-178, Sec. 1104(c)(2), as added by Pub. L. 105-206, Sec. 9002(d), struck out "50 percent of" after "shall apportion" in introductory provisions.

Subsec. (c)(1)(A). Pub. L. 105-178, Sec. 1104(c)(3), as added by Pub. L. 105-206, Sec. 9002(d), inserted "(other than metropolitan planning, minimum guarantee, high priority projects, Appalachian development highway system, and recreational trails programs)" after "subsection (a)".

Subsec. (c)(1)(B). Pub. L. 105-178, Sec. 1104(c)(4), as added by Pub. L. 105-206, Sec. 9002(d), substituted "each State" for "all States".

Subsec. (c)(2). Pub. L. 105-178, Sec. 1104(c)(5), as added by Pub. L. 105-206, Sec. 9002(d), substituted "administer" for "apportion" and "administered" for "apportioned".

Subsec. (f)(1). Pub. L. 105-178, Sec. 1104(c)(6)(A), as added by Pub. L. 105-206, Sec. 9002(d), inserted "percentage" before "return".

Subsec. (f)(2). Pub. L. 105-178, Sec. 1104(c)(6)(A), (B), as added by Pub. L. 105-206, Sec. 9002(d), inserted "percentage" before "return" and substituted "in the table in subsection (b) was equal to" for "for the preceding fiscal year was equal to or less than".

Subsec. (f)(3). Pub. L. 105-178, Sec. 1104(c)(6)(C), as added by Pub. L. 105-206, Sec. 9002(d), inserted "proportionately" before "adjust", struck out "set forth" before "in subsection (b)", and substituted "is equal to" for "do not exceed".

Subsec. (f)(4). Pub. L. 105-178, Sec. 1104(c)(6)(A), as added by Pub. L. 105-206, Sec. 9002(d), inserted "percentage" before "return".

1991 - Subsec. (k). Pub. L. 102-240 added subsec. (k).

1983 - Subsec. (h). Pub. L. 97-424 added subsec. (h).

1978 - Subsec. (b). Pub. L. 95-599, Sec. 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, Sec. 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, Sec. 106(d), added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

Subsec. (g). Pub. L. 91-605, Sec. 132, added subsec. (g).

1966 - Subsec. (e). Pub. L. 89-564 added subsec. (e).

1960 - Subsec. (e). Pub. L. 86-624 repealed subsec. (e) which required the Secretary, in approving programs in Hawaii, to give preference to such projects as will expedite the completion of highways for the national defense or which will connect seaports with units of the national parks.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Pub. L. 105-206, set out as a note under section 101 of this title.

#### EFFECTIVE DATE OF 1991 AMENDMENT

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

#### ACCELERATION OF PROJECTS

Section 129 of Pub. L. 97-424 provided that: "The Secretary of Transportation shall by rule or regulation establish, as soon as practicable, alternative methods for processing projects under title 23, United States Code, so as to reduce the time required from the request for project approval through the completion of construction. In carrying out this section the Secretary shall utilize the knowledge and experience resulting from the demonstration project authorized by and carried out under section 141 of the Federal-Aid Highway Act of 1976 [Pub. L. 94-280, title I, Sec. 141, May 5, 1976, 90 Stat. 444, set out as a note under section 124 of this title]."

-End-

-CITE-

23 USC Sec. 106

01/07/2011

-EXPCITE-

TITLE 23 - HIGHWAYS  
CHAPTER 1 - FEDERAL-AID HIGHWAYS

-HEAD-

Sec. 106. Project approval and oversight

-STATUTE-

(a) In General. -

(1) Submission of plans, specifications, and estimates. - Except as otherwise provided in this section, each State transportation department shall submit to the Secretary for approval such plans, specifications, and estimates for each proposed project as the Secretary may require.

(2) Project agreement. - The Secretary shall act on the plans, specifications, and estimates as soon as practicable after the date of their submission and shall enter into a formal project agreement with the State transportation department formalizing the conditions of the project approval.

(3) Contractual obligation. - The execution of the project agreement shall be deemed a contractual obligation of the Federal Government for the payment of the Federal share of the cost of the project.

(4) Guidance. - In taking action under this subsection, the Secretary shall be guided by section 109.

(b) Project Agreement. -

(1) Provision of state funds. - The project agreement shall make provision for State funds required to pay the State's non-Federal share of the cost of construction of the project and to pay for maintenance of the project after completion of construction.

(2) Representations of state. - If a part of the project is to be constructed at the expense of, or in cooperation with, political subdivisions of the State, the Secretary may rely on representations made by the State transportation department with respect to the arrangements or agreements made by the State transportation department and appropriate local officials for ensuring that the non-Federal contribution will be provided under paragraph (1).

(c) Assumption by States of Responsibilities of the Secretary. -

(1) Non-interstate nhs projects. - For projects under this title that are on the National Highway System but not on the Interstate System, the State may assume the responsibilities of the Secretary under this title for design, plans, specifications, estimates, contract awards, and inspections of projects unless the State or the Secretary determines that such assumption is not appropriate.

(2) Non-nhs projects. - For projects under this title that are not on the National Highway System, the State shall assume the responsibilities of the Secretary under this title for design, plans, specifications, estimates, contract awards, and inspection of projects, unless the State determines that such assumption is not appropriate.

(3) Agreement. - The Secretary and the State shall enter into an agreement relating to the extent to which the State assumes the responsibilities of the Secretary under this subsection.

(4) Limitation on authority of secretary. - The Secretary may not assume any greater responsibility than the Secretary is permitted under this title on September 30, 1997, except upon agreement by the Secretary and the State.

(d) Responsibilities of the Secretary. - Nothing in this section, section 133, or section 149 shall affect or discharge any responsibility or obligation of the Secretary under -

(1) section 113 or 114; or

(2) any Federal law other than this title (including section 5333 of title 49).

(e) Value Engineering Analysis. -

(1) Definition of value engineering analysis. -

(A) In general. - In this subsection, the term "value engineering analysis" means a systematic process of review and analysis of a project, during the concept and design phases, by a multidisciplined team of persons not involved in the project, that is conducted to provide recommendations such as those described in subparagraph (B) for -

(i) providing the needed functions safely, reliably, and at the lowest overall cost;

(ii) improving the value and quality of the project; and

(iii) reducing the time to complete the project.

(B) Inclusions. - The recommendations referred to in

subparagraph (A) include, with respect to a project -

(i) combining or eliminating otherwise inefficient use of costly parts of the original proposed design for the project; and

(ii) completely redesigning the project using different technologies, materials, or methods so as to accomplish the original purpose of the project.

(2) Analysis. - The State shall provide a value engineering analysis or other cost-reduction analysis for -

(A) each project on the Federal-aid system with an estimated total cost of \$25,000,000 or more;

(B) a bridge project with an estimated total cost of \$20,000,000 or more; and

(C) any other project the Secretary determines to be appropriate.

(3) Major projects. - The Secretary may require more than 1 analysis described in paragraph (2) for a major project described in subsection (h).

(4) Requirements. - Analyses described in paragraph (1) for a bridge project shall -

(A) include bridge substructure requirements based on construction material; and

(B) be evaluated -

(i) on engineering and economic bases, taking into consideration acceptable designs for bridges; and

(ii) using an analysis of life-cycle costs and duration of project construction.

(f) Life-Cycle Cost Analysis. -

(1) Use of life-cycle cost analysis. - The Secretary shall develop recommendations for the States to conduct life-cycle cost analyses. The recommendations shall be based on the principles contained in section 2 of Executive Order No. 12893 and shall be developed in consultation with the American Association of State Highway and Transportation Officials. The Secretary shall not require a State to conduct a life-cycle cost analysis for any project as a result of the recommendations required under this subsection.

(2) Life-cycle cost analysis defined. - In this subsection, the term "life-cycle cost analysis" means a process for evaluating the total economic worth of a usable project segment by analyzing initial costs and discounted future costs, such as maintenance, user costs, reconstruction, rehabilitation, restoring, and resurfacing costs, over the life of the project segment.

(g) Oversight Program. -

(1) Establishment. -

(A) In general. - The Secretary shall establish an oversight program to monitor the effective and efficient use of funds authorized to carry out this title.

(B) Minimum requirement. - At a minimum, the program shall be responsive to all areas relating to financial integrity and project delivery.

(2) Financial integrity. -

(A) Financial management systems. - The Secretary shall perform annual reviews that address elements of the State transportation departments' financial management systems that affect projects approved under subsection (a).

(B) Project costs. - The Secretary shall develop minimum standards for estimating project costs and shall periodically evaluate the practices of States for estimating project costs, awarding contracts, and reducing project costs.

(3) Project delivery. - The Secretary shall perform annual reviews that address elements of the project delivery system of a State, which elements include one or more activities that are involved in the life cycle of a project from conception to completion of the project.

(4) Responsibility of the states. -

(A) In general. - The States shall be responsible for determining that subrecipients of Federal funds under this title have -

(i) adequate project delivery systems for projects approved under this section; and

(ii) sufficient accounting controls to properly manage such Federal funds.

(B) Periodic review. - The Secretary shall periodically review the monitoring of subrecipients by the States.

(5) Specific oversight responsibilities. -

(A) Effect of section. - Nothing in this section shall affect or discharge any oversight responsibility of the Secretary specifically provided for under this title or other Federal law.

(B) Appalachian development highways. - The Secretary shall retain full oversight responsibilities for the design and construction of all Appalachian development highways under section 14501 of title 40.

(h) Major Projects. -

(1) In general. - Notwithstanding any other provision of this section, a recipient of Federal financial assistance for a project under this title with an estimated total cost of \$500,000,000 or more, and recipients for such other projects as may be identified by the Secretary, shall submit to the Secretary for each project -

(A) a project management plan; and

(B) an annual financial plan.

(2) Project management plan. - A project management plan shall document -

(A) the procedures and processes that are in effect to provide timely information to the project decisionmakers to effectively manage the scope, costs, schedules, and quality of, and the Federal requirements applicable to, the project; and

(B) the role of the agency leadership and management team in the delivery of the project.

(3) Financial plan. - A financial plan shall -

(A) be based on detailed estimates of the cost to complete the project; and

(B) provide for the annual submission of updates to the Secretary that are based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.

(i) Other Projects. - A recipient of Federal financial assistance for a project under this title with an estimated total cost of

\$100,000,000 or more that is not covered by subsection (h) shall prepare an annual financial plan. Annual financial plans prepared under this subsection shall be made available to the Secretary for review upon the request of the Secretary.

-SOURCE-

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 892; Pub. L. 88-157, Sec. 7(a), Oct. 24, 1963, 77 Stat. 278; Pub. L. 91-605, title I, Secs. 106(e), 142, Dec. 31, 1970, 84 Stat. 1717, 1737; Pub. L. 94-280, title I, Sec. 114, May 5, 1976, 90 Stat. 436; Pub. L. 100-17, title I, Sec. 133(b)(4), Apr. 2, 1987, 101 Stat. 171; Pub. L. 102-240, title I, Secs. 1016(b), 1018(a), Dec. 18, 1991, 105 Stat. 1945, 1948; Pub. L. 104-59, title III, Sec. 303, Nov. 28, 1995, 109 Stat. 578; Pub. L. 105-178, title I, Sec. 1305(a)-(c), June 9, 1998, 112 Stat. 227-229; Pub. L. 109-59, title I, Sec. 1904(a), Aug. 10, 2005, 119 Stat. 1465.)

-REFTEXT-

REFERENCES IN TEXT

Executive Order No. 12893, referred to in subsec. (f)(1), is set out as a note under section 501 of Title 31, Money and Finance.

-MISC1-

AMENDMENTS

2005 - Subsec. (e). Pub. L. 109-59, Sec. 1904(a)(1), added subsec. (e) and struck out heading and text of former subsec. (e). Text read as follows: "For such projects as the Secretary determines advisable, plans, specifications, and estimates for proposed projects on any Federal-aid highway shall be accompanied by a value engineering analysis or other cost reduction analysis."

Subsecs. (g) to (i). Pub. L. 109-59, Sec. 1904(a)(2), added subsecs. (g) to (i) and struck out former subsecs. (g) and (h) which related to establishment of a value engineering analysis program for projects with an estimated total cost of \$25,000,000 or more and requirement that recipient of assistance for a project with an estimated total cost of \$1,000,000,000 or more submit an annual financial plan for the project.

1998 - Pub. L. 105-178, Sec. 1305(a)(1), substituted "Project approval and oversight" for "Plans, specifications, and estimates" in section catchline.

Subsecs. (a) to (d). Pub. L. 105-178, Sec. 1305(a)(3), added subsecs. (a) to (d) and struck out former subsecs. (a) to (d) which related to requirement for State highway departments to submit to Secretary for approval plans, specifications, and estimates for each proposed highway project, special rules relating to resurfacing, restoring, and rehabilitating projects on National Highway System, to low-cost National Highway System projects, and to non-National Highway System projects, limitation on estimates for construction engineering, and provisions relating to value engineering or other cost reduction analysis.

Subsec. (e). Pub. L. 105-178, Sec. 1305(a)(3), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 105-178, Sec. 1305(c), added subsec. (f) and struck out former subsec. (f) which read as follows:

"(f) Life-Cycle Cost Analysis. -

"(1) Establishment. - The Secretary shall establish a program to require States to conduct an analysis of the life-cycle costs of each usable project segment on the National Highway System with a cost of \$25,000,000 or more.

"(2) Analysis of the life-cycle costs defined. - In this

subsection, the term 'analysis of the life-cycle costs' means a process for evaluating the total economic worth of a usable project segment by analyzing initial costs and discounted future costs, such as maintenance, reconstruction, rehabilitation, restoring, and resurfacing costs, over the life of the project segment."

Pub. L. 105-178, Sec. 1305(a)(2), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 105-178, Sec. 1305(a)(2), redesignated subsec. (f) as (g).

Subsec. (h). Pub. L. 105-178, Sec. 1305(b), added subsec. (h).

1995 - Subsecs. (e), (f). Pub. L. 104-59 added subsecs. (e) and (f).

1991 - Subsec. (a). Pub. L. 102-240, Sec. 1016(b)(1), inserted "this section and" before "section 117".

Subsec. (b). Pub. L. 102-240, Sec. 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, Sec. 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, Sec. 106(e), inserted reference to the Federal-aid urban system.

Subsec. (d). Pub. L. 91-605, Sec. 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.



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, Sec. 5(b), Sept. 13, 1966, 80 Stat. 767, as amended by Pub. L. 97-449, Sec. 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.

-End-

-CITE-

23 USC Sec. 107

01/07/2011

-EXPCITE-

TITLE 23 - HIGHWAYS  
CHAPTER 1 - FEDERAL-AID HIGHWAYS

-HEAD-

Sec. 107. Acquisition of rights-of-way - Interstate System

-STATUTE-

(a) In any case in which the Secretary is requested by a State to acquire lands or interests in lands (including within the term "interests in lands", the control of access thereto from adjoining lands) required by such State for right-of-way or other purposes in connection with the prosecution of any project for the construction, reconstruction, or improvement of any section of the Interstate System, the Secretary is authorized, in the name of the United States and prior to the approval of title by the Attorney General, to acquire, enter upon, and take possession of such lands or interests in lands by purchase, donation, condemnation, or otherwise in accordance with the laws of the United States (including sections 3114 to 3116 and 3118 of title 40), if -

(1) the Secretary has determined either that the State is unable to acquire necessary lands or interests in lands, or is unable to acquire such lands or interests in lands with sufficient promptness; and

(2) the State has agreed with the Secretary to pay, at such time as may be specified by the Secretary an amount equal to 10 per centum of the costs incurred by the Secretary, in acquiring such lands or interests in lands, or such lesser percentage which represents the State's pro rata share of project costs as

determined in accordance with subsection (c) (!1) of section 120 of this title.

The authority granted by this section shall also apply to lands and interests in lands received as grants of land from the United States and owned or held by railroads or other corporations.

(b) The costs incurred by the Secretary in acquiring any such lands or interests in lands may include the cost of examination and abstract of title, certificate of title, advertising, and any fees incidental to such acquisition. All costs incurred by the Secretary in connection with the acquisition of any such lands or interests in lands shall be paid from the funds for construction, reconstruction, or improvement of the Interstate System apportioned to the State upon the request of which such lands or interests in lands are acquired, and any sums paid to the Secretary by such State as its share of the costs of acquisition of such lands or interests in lands shall be deposited in the Treasury to the credit of the appropriation for Federal-aid highways and shall be credited to the amount apportioned to such State as its apportionment of funds for construction, reconstruction, or improvement of the Interstate System, or shall be deducted from other moneys due the State for reimbursement from funds authorized to be appropriated under section 108(b) of the Federal-Aid Highway Act of 1956.

(c) The Secretary is further authorized and directed by proper deed, executed in the name of the United States, to convey any such lands or interests in lands acquired in any State under the provisions of this section, except the outside five feet of any such right-of-way in any State which does not provide control of access, to the State transportation department of such State or such political subdivision thereof as its laws may provide, upon such terms and conditions as to such lands or interests in lands as may be agreed upon by the Secretary and the State transportation department or political subdivisions to which the conveyance is to be made. Whenever the State makes provision for control of access satisfactory to the Secretary, the outside five feet then shall be conveyed to the State by the Secretary, as herein provided.

(d) Whenever rights-of-way, including control of access, on the Interstate System are required over lands or interests in lands owned by the United States, the Secretary may make such arrangements with the agency having jurisdiction 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.

-SOURCE-

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 892; Pub. L. 105-178, title I, Sec. 1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 193; Pub. L. 109-284, Sec. 3(1), Sept. 27, 2006, 120 Stat. 1211.)

-REFTEXT-

REFERENCES IN TEXT

Subsection (c) of section 120 of this title, referred to in subsec. (a)(2), was struck out and a new subsec. (c) was added by Pub. L. 102-240, title I, Sec. 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.

-MISC1-

AMENDMENTS

2006 - Subsec. (a). Pub. L. 109-284 substituted "sections 3114 to 3116 and 3118 of title 40" for "the Act of February 26, 1931, 46 Stat. 1421".

1998 - Subsec. (c). Pub. L. 105-178 substituted "State transportation department" for "State highway department" in two places.

-FOOTNOTE-

(!1) See References in Text note below.

-End-

-CITE-

23 USC Sec. 108

01/07/2011

-EXPCITE-

TITLE 23 - HIGHWAYS

CHAPTER 1 - FEDERAL-AID HIGHWAYS

-HEAD-

Sec. 108. Advance acquisition of real property

-STATUTE-

(a) In General. -

(1) Availability of funds. - For the purpose of facilitating the timely and economical acquisition of real property for a transportation improvement eligible for funding under this title, the Secretary, upon the request of a State, may make available, for the acquisition of real property, such funds apportioned to the State as may be expended on the transportation improvement, under such rules and regulations as the Secretary may issue.

(2) Construction. - The agreement between the Secretary and the State for the reimbursement of the cost of the real property shall provide for the actual construction of the transportation improvement within a period not to exceed 20 years following the fiscal year for which the request is made, unless the Secretary determines that a longer period is reasonable.

(b) Federal participation in the cost of rights-of-way acquired under subsection (a) of this section shall not exceed the Federal pro rata share applicable to the class of funds from which Federal reimbursement is made.

(c) Early Acquisition of Rights-of-Way. -

(1) General rule. - Subject to paragraph (2), funds apportioned to a State under this title may be used to participate in the payment of -

(A) costs incurred by the State for acquisition of rights-of-way, acquired in advance of any Federal approval or authorization, if the rights-of-way are subsequently incorporated into a project eligible for surface transportation program funds; and

(B) costs incurred by the State for the acquisition of land necessary to preserve environmental and scenic values.

(2) Terms and conditions. - The Federal share payable of the costs described in paragraph (1) shall be eligible for reimbursement out of funds apportioned to a State under this title when the rights-of-way acquired are incorporated into a project eligible for surface transportation program funds, if the State demonstrates to the Secretary and the Secretary finds that -

(A) any land acquired, and relocation assistance provided, complied with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(B) the requirements of title VI of the Civil Rights Act of 1964 have been complied with;

(C) the State has a mandatory comprehensive and coordinated land use, environment, and transportation planning process under State law and the acquisition is certified by the Governor as consistent with the State plans before the acquisition;

(D) the acquisition is determined in advance by the Governor to be consistent with the State transportation planning process pursuant to section 135 of this title;

(E) the alternative for which the right-of-way is acquired is selected by the State pursuant to regulations to be issued by the Secretary which provide for the consideration of the environmental impacts of various alternatives;

(F) before the time that the cost incurred by a State is approved for Federal participation, environmental compliance pursuant to the National Environmental Policy Act has been completed for the project for which the right-of-way was acquired by the State, and the acquisition has been approved by the Secretary under this Act, (!1) and in compliance with section 303 of title 49, section 7 of the Endangered Species Act, and all other applicable environmental laws shall be identified by the Secretary in regulations; and

(G) before the time that the cost incurred by a State is approved for Federal participation, both the Secretary and the Administrator of the Environmental Protection Agency have concurred that the property acquired in advance of Federal approval or authorization did not influence the environmental assessment of the project, the decision relative to the need to construct the project, or the selection of the project design or location.

-SOURCE-

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 893; Pub. L. 86-35, Sec. 1, May 29, 1959, 73 Stat. 62; Pub. L. 90-495, Sec. 7(a), (b), Aug. 23, 1968, 82 Stat. 818; Pub. L. 93-87, title I, Sec. 113, Aug. 13, 1973, 87 Stat. 257; Pub. L. 94-280, title I, Sec. 115, May 5, 1976, 90 Stat. 436; Pub. L. 102-240, title I, Sec. 1017(a), (b), Dec. 18, 1991, 105 Stat. 1947; Pub. L. 102-388, title III, Sec. 346, Oct. 6, 1992, 106 Stat. 1553; Pub. L. 103-429, Sec. 3(2), Oct. 31, 1994, 108 Stat. 4377; Pub. L. 105-178, title I, Secs. 1211(e)(1), 1301(a), June 9, 1998, 112 Stat. 188, 225.)

-REFTEXT-

REFERENCES IN TEXT

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in subsec. (c)(2)(A), is act Jan. 2, 1971, Pub. L. 91-646, 84 Stat. 1894, as amended, and which is classified principally to chapter 61 (Sec. 4601 et seq.) of Title

42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of Title 42 and Tables.

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

The National Environmental Policy Act, referred to in subsec. (c)(2)(F), probably means the National Environmental Policy Act of 1969, Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (Sec. 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

This Act, referred to in subsec. (c)(2)(F), probably means Pub. L. 102-240, Dec. 18, 1991, 105 Stat. 1914, known as the Intermodal Surface Transportation Efficiency Act of 1991. For complete classification of this Act to the Code, see Short Title of 1991 Amendment note set out under section 101 of Title 49, Transportation, and Tables.

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

-MISC1-

#### AMENDMENTS

1998 - Pub. L. 105-178, Sec. 1301(a), substituted "Advance acquisition of real property" for "Advance acquisition of rights-of-way" in section catchline.

Subsec. (a). Pub. L. 105-178, Sec. 1301(a), added subsec. (a) and struck out former subsec. (a) which read as follows: "For the purpose of facilitating the acquisition of rights-of-way on any Federal-aid highway in the most expeditious and economical manner, and recognizing that the acquisition of rights-of-way requires lengthy planning and negotiations if it is to be done at a reasonable cost, the Secretary, upon the request of the State highway department, is authorized to make available the funds apportioned to any State which may be expended on such highway for acquisition of rights-of-way, in anticipation of construction and under such rules and regulations as the Secretary may prescribe. The agreement between the Secretary and the State highway department for the reimbursement of the cost of such rights-of-way shall provide for the actual construction of a road on such rights-of-way within a period not exceeding 20 years following the fiscal year in which such request is made unless a longer period is determined to be reasonable by the Secretary."

Subsecs. (c), (d). Pub. L. 105-178, Sec. 1211(e)(1), redesignated subsec. (d) as (c) and struck out former subsec. (c) which related to establishment and administration of right-of-way revolving fund.

1994 - Subsec. (d)(2)(F). Pub. L. 103-429 substituted "section 303 of title 49" for "section 4(f) of the Department of Transportation Act".

1992 - Subsec. (a). Pub. L. 102-388, Sec. 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, Sec. 346(3), inserted "and passenger transit facilities".

Subsec. (c)(3). Pub. L. 102-388, Sec. 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, Sec. 346(4), substituted "project" for "highway" after "construction of a" in first and second sentences.

1991 - Subsecs. (a), (c)(3). Pub. L. 102-240, Sec. 1017(a), substituted "20" for "ten".

Subsec. (d). Pub. L. 102-240, Sec. 1017(b), added subsec. (d).

1976 - Subsec. (a). Pub. L. 94-280, Sec. 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, Sec. 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, Sec. 115(c), inserted "or later" after "earlier" in first sentence.

1973 - Subsec. (a). Pub. L. 93-87, Sec. 113(a), substituted "ten" for "seven" years in last sentence.

Subsec. (c)(3). Pub. L. 93-87, Sec. 113(b), substituted "ten" for "seven" years in first sentence.

1968 - Subsec. (b). Pub. L. 90-495, Sec. 7(a), substituted "subsection (a) of this section" for "this section".

Subsec. (c). Pub. L. 90-495, Sec. 7(b), added subsec. (c).

1959 - Subsec. (a). Pub. L. 86-35 increased from five to seven years the period in which actual construction shall commence on rights-of-way acquired in anticipation of such construction.

#### EFFECTIVE DATE OF 1991 AMENDMENT

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

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-495 effective Aug. 23, 1968, see section 37 of Pub. L. 90-495, set out as a note under section 101 of this title.

#### TRANSITION PROVISIONS

Pub. L. 105-178, title I, Sec. 1211(e)(2), June 9, 1998, 112 Stat. 188, provided that:

"(A) In general. - Funds advanced to a State by the Secretary from the right-of-way revolving fund established by section 108(c) of title 23, United States Code, prior to the date of enactment of this Act [June 9, 1998] shall remain available to the State for use on the projects for which the funds were advanced for a period of 20 years from the date on which the funds were advanced.

"(B) Credit to highway trust fund. - With respect to a project for which funds have been advanced from the right-of-way revolving fund, upon the termination of the 20-year period referred to in subparagraph (A), when actual construction is commenced, or upon approval by the Secretary of the plans, specifications, and estimates for the actual construction of the project on the right-of-way, whichever occurs first -

"(i) the Highway Trust Fund (other than the Mass Transit

Account) shall be credited with an amount equal to the Federal share of the funds advanced, as provided in section 120 of title 23, United States Code, out of any Federal-aid highway funds apportioned to the State in which the project is located and available for obligation for projects of the type funded; and

"(ii) the State shall reimburse the Secretary in an amount equal to the non-Federal share of the funds advanced for deposit in, and credit to, the Highway Trust Fund (other than the Mass Transit Account)."

#### PRESERVATION OF TRANSPORTATION CORRIDORS REPORT

Section 1017(c) of Pub. L. 102-240 provided that: "The Secretary, in consultation with the States, shall report to Congress within 2 years after the date of the enactment of this Act [Dec. 18, 1991], a national list of the rights-of-way identified by the metropolitan planning organizations and the States (under sections 134 and 135 of title 23, United States Code), including the total mileage involved, an estimate of the total costs, and a strategy for preventing further loss of rights-of-way including the desirability of creating a transportation right-of-way land bank to preserve vital corridors."

#### AUTHORIZATION OF APPROPRIATIONS TO RIGHT-OF-WAY REVOLVING FUND; APPORTIONMENT; REVERSION OF AMOUNTS NOT ADVANCED OR OBLIGATED

Section 7(c)-(e) of Pub. L. 90-495 provided that \$100,000,000 for the fiscal year ending June 30, 1970, \$100,000,000 for the fiscal year ending June 30, 1971, and \$100,000,000 for the fiscal year ending June 30, 1972, be transferred from the highway trust fund to the right-of-way revolving fund established by subsec. (c) of this section, authorized the Secretary to apportion these funds and required that funds apportioned to a State remain available for obligation for advances until Oct. 1 of the fiscal year in which the apportionment was made and any funds not advanced or obligated by such date revert to the right-of-way revolving fund for distribution to other States.

#### STUDY OF ADVANCE ACQUISITION OF RIGHTS-OF-WAY

Pub. L. 89-574, Sec. 10, Sept. 13, 1966, 80 Stat. 769, as amended by Pub. L. 97-449, Sec. 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.

-FOOTNOTE-

(!1) See References in Text note below.

-End-

-CITE-

23 USC Sec. 109

01/07/2011

-EXPCITE-

TITLE 23 - HIGHWAYS

CHAPTER 1 - FEDERAL-AID HIGHWAYS

-HEAD-

Sec. 109. Standards

-STATUTE-

(a) In General. - The Secretary shall ensure that the plans and specifications for each proposed highway project under this chapter provide for a facility that will -

(1) adequately serve the existing and planned future traffic of the highway in a manner that is conducive to safety, durability, and economy of maintenance; and

(2) be designed and constructed in accordance with criteria best suited to accomplish the objectives described in paragraph (1) and to conform to the particular needs of each locality.

(b) The geometric and construction standards to be adopted for the Interstate System shall be those approved by the Secretary in cooperation with the State transportation departments. Such standards, as applied to each actual construction project, shall be adequate to enable such project to accommodate the types and volumes of traffic anticipated for such project for the twenty-year period commencing on the date of approval by the Secretary, under section 106 of this title, of the plans, specifications, and estimates for actual construction of such project. Such standards shall in all cases provide for at least four lanes of traffic. The right-of-way width of the Interstate System shall be adequate to permit construction of projects on the Interstate System to such standards. The Secretary shall apply such standards uniformly throughout all the States.

(c) Design Criteria for National Highway System. -

(1) In general. - A design for new construction, reconstruction, resurfacing (except for maintenance resurfacing), restoration, or rehabilitation of a highway on the National Highway System (other than a highway also on the Interstate System) may take into account, in addition to the criteria described in subsection (a) -

(A) the constructed and natural environment of the area;

(B) the environmental, scenic, aesthetic, historic, community, and preservation impacts of the activity; and

(C) access for other modes of transportation.

(2) Development of criteria. - The Secretary, in cooperation with State transportation departments, may develop criteria to implement paragraph (1). In developing criteria under this



paragraph, the Secretary shall consider -

(A) the results of the committee process of the American Association of State Highway and Transportation Officials as used in adopting and publishing "A Policy on Geometric Design of Highways and Streets", including comments submitted by interested parties as part of such process;

(B) the publication entitled "Flexibility in Highway Design" of the Federal Highway Administration;

(C) "Eight Characteristics of Process to Yield Excellence and the Seven Qualities of Excellence in Transportation Design" developed by the conference held during 1998 entitled "Thinking Beyond the Pavement National Workshop on Integrating Highway Development with Communities and the Environment while Maintaining Safety and Performance"; and

(D) any other material that the Secretary determines to be appropriate.

(d) On any highway project in which Federal funds hereafter participate, or on any such project constructed since December 20, 1944, the location, form and character of informational, regulatory and warning signs, curb and pavement or other markings, and traffic signals installed or placed by any public authority or other agency, shall be subject to the approval of the State transportation department with the concurrence of the Secretary, who is directed to concur only in such installations as will promote the safe and efficient utilization of the highways.

(e) Installation of Safety Devices. -

(1) Highway and railroad grade crossings and drawbridges. - No funds shall be approved for expenditure on any Federal-aid highway, or highway affected under chapter 2 of this title, unless proper safety protective devices complying with safety standards determined by the Secretary at that time as being adequate shall be installed or be in operation at any highway and railroad grade crossing or drawbridge on that portion of the highway with respect to which such expenditures are to be made.

(2) Temporary traffic control devices. - No funds shall be approved for expenditure on any Federal-aid highway, or highway affected under chapter 2, unless proper temporary traffic control devices to improve safety in work zones will be installed and maintained during construction, utility, and maintenance operations on that portion of the highway with respect to which such expenditures are to be made. Installation and maintenance of the devices shall be in accordance with the Manual on Uniform Traffic Control Devices.

(f) The Secretary shall not, as a condition precedent to his approval under section 106 of this title, require any State to acquire title to, or control of, any marginal land along the proposed highway in addition to that reasonably necessary for road surfaces, median strips, bikeways, gutters, ditches, and side slopes, and of sufficient width to provide service roads for adjacent property to permit safe access at controlled locations in order to expedite traffic, promote safety, and minimize roadside parking.

(g) Not later than January 30, 1971, the Secretary shall issue guidelines for minimizing possible soil erosion from highway construction. Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines.

(h) Not later than July 1, 1972, the Secretary, after consultation with appropriate Federal and State officials, shall

submit to Congress, and not later than 90 days after such submission, promulgate guidelines designed to assure that possible adverse economic, social, and environmental effects relating to any proposed project on any Federal-aid system have been fully considered in developing such project, and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for fast, safe and efficient transportation, public services, and the costs of eliminating or minimizing such adverse effects and the following:

- (1) air, noise, and water pollution;
- (2) destruction or disruption of man-made and natural resources, aesthetic values, community cohesion and the availability of public facilities and services;
- (3) adverse employment effects, and tax and property value losses;
- (4) injurious displacement of people, businesses and farms; and
- (5) disruption of desirable community and regional growth.

Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines.

(i) The Secretary, after consultation with appropriate Federal, State, and local officials, shall develop and promulgate standards for highway noise levels compatible with different land uses and after July 1, 1972, shall not approve plans and specifications for any proposed project on any Federal-aid system for which location approval has not yet been secured unless he determines that such plans and specifications include adequate measures to implement the appropriate noise level standards. The Secretary, after consultation with the Administrator of the Environmental Protection Agency and appropriate Federal, State, and local officials, may promulgate standards for the control of highway noise levels for highways on any Federal-aid system for which project approval has been secured prior to July 1, 1972. The Secretary may approve any project on a Federal-aid system to which noise-level standards are made applicable under the preceding sentence for the purpose of carrying out such standards. Such project may include, but is not limited to, the acquisition of additional rights-of-way, the construction of physical barriers, and landscaping. Sums apportioned for the Federal-aid system on which such project will be located shall be available to finance the Federal share of such project. Such project shall be deemed a highway project for all purposes of this title.

(j) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall develop and promulgate guidelines to assure that highways constructed pursuant to this title are consistent with any approved plan for -

- (1) the implementation of a national ambient air quality standard for each pollutant for which an area is designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or
- (2) the maintenance of a national ambient air quality standard in an area that was designated as a nonattainment area but that was later redesignated by the Administrator as an attainment area for the standard and that is required to develop a maintenance plan under section 175A of the Clean Air Act (42 U.S.C. 7505a).

(k) The Secretary shall not approve any project involving approaches to a bridge under this title, if such project and bridge will significantly affect the traffic volume and the highway system of a contiguous State without first taking into full consideration

the views of that State.

(1)(1) In determining whether any right-of-way on any Federal-aid highway should be used for accommodating any utility facility, the Secretary shall -

(A) first ascertain the effect such use will have on highway and traffic safety, since in no case shall any use be authorized or otherwise permitted, under this or any other provision of law, which would adversely affect safety;

(B) evaluate the direct and indirect environmental and economic effects of any loss of productive agricultural land or any impairment of the productivity of any agricultural land which would result from the disapproval of the use of such right-of-way for the accommodation of such utility facility; and

(C) consider such environmental and economic effects together with any interference with or impairment of the use of the highway in such right-of-way which would result from the use of such right-of-way for the accommodation of such utility facility.

(2) For the purpose of this subsection -

(A) the term "utility facility" means any privately, publicly, or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, which directly or indirectly serves the public; and

(B) the term "right-of-way" means any real property, or interest therein, acquired, dedicated, or reserved for the construction, operation, and maintenance of a highway.

(m) Protection of Nonmotorized Transportation Traffic. - The Secretary shall not approve any project or take any regulatory action under this title that will result in the severance of an existing major route or have significant adverse impact on the safety for nonmotorized transportation traffic and light motorcycles, unless such project or regulatory action provides for a reasonable alternate route or such a route exists.

(n) It is the intent of Congress that any project for resurfacing, restoring, or rehabilitating any highway, other than a highway access to which is fully controlled, in which Federal funds participate shall be constructed in accordance with standards to preserve and extend the service life of highways and enhance highway safety.

(o) Compliance With State Laws for Non-NHS Projects. - Projects (other than highway projects on the National Highway System) shall be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards.

(p) Scenic and Historic Values. - Notwithstanding subsections (b) and (c), the Secretary may approve a project for the National Highway System if the project is designed to -

(1) allow for the preservation of environmental, scenic, or historic values;

(2) ensure safe use of the facility; and

(3) comply with subsection (a).

(q) Phase Construction. - Safety considerations for a project under this title may be met by phase construction consistent with the operative safety management system established in accordance with section 303 or in accordance with a statewide transportation

improvement program approved by the Secretary.

-SOURCE-

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 894; Pub. L. 88-157, Sec. 4, Oct. 24, 1963, 77 Stat. 277; Pub. L. 89-574, Secs. 5(a), 14, Sept. 13, 1966, 80 Stat. 767, 771; Pub. L. 91-605, title I, Sec. 136(a), (b), Dec. 31, 1970, 84 Stat. 1734; Pub. L. 93-87, title I, Secs. 114, 152(2), 156, Aug. 13, 1973, 87 Stat. 257, 276, 277; Pub. L. 95-599, title I, Secs. 113, 116(d), 141(f), (g), Nov. 6, 1978, 92 Stat. 2696, 2699, 2711; Pub. L. 96-106, Sec. 3, Nov. 9, 1979, 93 Stat. 797; Pub. L. 97-424, title I, Sec. 110(a), Jan. 6, 1983, 96 Stat. 2105; Pub. L. 102-240, title I, Sec. 1016(c)-(f)(1), Dec. 18, 1991, 105 Stat. 1946; Pub. L. 104-59, title III, Secs. 304, 305(a), Nov. 28, 1995, 109 Stat. 579, 580; Pub. L. 105-178, title I, Secs. 1202(c), 1212(a)(2)(A), 1306, June 9, 1998, 112 Stat. 169, 193, 229; Pub. L. 109-59, title I, Sec. 1110(a), (c), title VI, Sec. 6008, Aug. 10, 2005, 119 Stat. 1170, 1171, 1874.)

-MISC1-

AMENDMENTS

2005 - Subsec. (c)(2). Pub. L. 109-59, Sec. 6008, inserted dash after "Secretary shall consider" and subpar. (A) designation before "the results", substituted semicolon for period, and added subpars. (B) to (D).

Subsec. (e). Pub. L. 109-59, Sec. 1110(a), inserted subsec. heading, designated existing provisions as par. (1), inserted par. heading, and added par. (2).

Subsec. (g). Pub. L. 109-59, Sec. 1110(c), substituted "Not later than January 30, 1971, the Secretary shall issue" for "The Secretary shall issue within 30 days after the day of enactment of the Federal-Aid Highway Act of 1970".

1998 - Subsecs. (b), (c)(2). Pub. L. 105-178, Sec. 1212(a)(2)(A)(ii), substituted "State transportation departments" for "State highway departments".

Subsec. (d). Pub. L. 105-178, Sec. 1212(a)(2)(A)(i), substituted "State transportation department" for "State highway department".

Subsec. (m). Pub. L. 105-178, Sec. 1306(a), redesignated subsec. (n) as (m) and struck out former subsec. (m) which read as follows: "The Secretary shall issue guidelines describing the criteria applicable to the Interstate System in order to insure that the condition of these routes is maintained at the level required by the purposes for which they were designed. The initial guidelines shall be issued no later than October 1, 1979."

Subsec. (n). Pub. L. 105-178, Sec. 1306(a)(2), redesignated subsec. (o) as (n). Former subsec. (n) redesignated (m).

Pub. L. 105-178, Sec. 1202(c), inserted heading and amended text of subsec. (n) generally. Prior to amendment, text read as follows: "The Secretary shall not approve any project under this title that will result in the severance or destruction of an existing major route for nonmotorized transportation traffic and light motorcycles, unless such project provides a reasonably alternate route or such a route exists."

Subsecs. (o) to (q). Pub. L. 105-178, Sec. 1306(a)(2), (b), added subsec. (q) and redesignated former subsecs. (p) and (q) as (o) and (p), respectively. Former subsec. (o) redesignated (n).

1995 - Subsec. (a). Pub. L. 104-59, Sec. 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, Sec. 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, Sec. 305(a), substituted "plan for -" and pars. (1) and (2) for "plan for the implementation 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, Sec. 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, Sec. 1016(f)(1)(A), substituted "highway projects under this chapter" for "projects on any Federal-aid system".

Subsec. (c). Pub. L. 102-240, Sec. 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, Sec. 1016(f)(1)(B), substituted "highway" for "system" in introductory provisions.

Subsecs. (p), (q). Pub. L. 102-240, Sec. 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, Sec. 141(f), inserted "bikeways" after "surfaces, median strips,".

Subsec. (l). Pub. L. 95-599, Sec. 113, added subsec. (l).

Subsec. (m). Pub. L. 95-599, Sec. 116(d), added subsec. (m).

Subsec. (n). Pub. L. 95-599, Sec. 141(g), added subsec. (n).

1973 - Subsec. (g). Pub. L. 93-87, Sec. 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, Sec. 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, Sec. 156, added subsec. (k).

1970 - Subsec. (g). Pub. L. 91-605, Sec. 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, Sec. 136(b), added subsecs. (h) to (j).

1966 - Subsec. (b). Pub. L. 89-574, Sec. 5(a), required that in all cases the standards provide for at least four lanes of traffic.

Subsec. (g). Pub. L. 89-574, Sec. 14, added subsec. (g).

1963 - Subsec. (b). Pub. L. 88-157 substituted "Such standards, as applied to each actual construction project, shall be adequate to enable such project to accommodate the types and volumes of traffic anticipated for such project for the twenty-year period commencing on the date of approval by the Secretary, under section 106 of this title, of the plans, specifications, and estimates for actual construction of such project" for "Such standards shall be adequate to accommodate the types and volumes of traffic forecast for the year 1975", struck out "up" before "to such standards" and inserted "all" in phrase "throughout all the States".

#### EFFECTIVE DATE OF 1991 AMENDMENT

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

#### HIGHWAY SIGNS RELATING TO VETERANS CEMETERIES

Pub. L. 108-29, Sec. 3, May 29, 2003, 117 Stat. 772, provided that:

"(a) In General. - Notwithstanding the terms of any agreement entered into by the Secretary of Transportation and a State under section 109(d) or 402(a) of title 23, United States Code, a veterans cemetery shall be treated as a site for which a supplemental guide sign may be placed on any Federal-aid highway.

"(b) Applicability. - Subsection (a) shall apply to an agreement entered into before, on, or after the date of the enactment of this Act [May 29, 2003]."

#### INTERNATIONAL ROUGHNESS INDEX

Pub. L. 105-178, title I, Sec. 1213(b), June 9, 1998, 112 Stat. 200, provided that:

"(1) Study. - The Comptroller General of the United States shall conduct a study on the international roughness index that is used as an indicator of pavement quality on the Federal-aid highway system.

"(2) Required elements. - The study shall specify the extent of usage of the index and the extent to which the international roughness index measurement is reliable across different manufacturers and types of pavement.

"(3) Report to congress. - Not later than 2 years after the date of enactment of this Act [June 9, 1998], the Comptroller General shall submit to Congress a report on the results of the study."

#### ENVIRONMENTAL STREAMLINING

Pub. L. 105-178, title I, Sec. 1309, June 9, 1998, 112 Stat. 232, as amended by Pub. L. 105-206, title IX, Sec. 9004(c), July 22, 1998, 112 Stat. 843, which directed the Secretary of Transportation to develop and implement a coordinated environmental review process for highway construction and mass transit projects, was repealed by Pub. L. 109-59, title VI, Sec. 6002(d), Aug. 10, 2005, 119 Stat. 1865.

#### ROADSIDE SAFETY TECHNOLOGIES

Pub. L. 105-178, title I, Sec. 1402, June 9, 1998, 112 Stat. 236, as amended by Pub. L. 105-206, title IX, Sec. 9005(c), July 22, 1998, 112 Stat. 848, provided that:

"(a) Crash Cushions. -

"(1) Guidance. - Not later than 18 months after the date of enactment of this Act [June 9, 1998], the Secretary shall issue guidance regarding the benefits and safety performance of redirective and nonredirective crash cushions in different road applications, taking into consideration roadway conditions, operating speed limits, the location of the crash cushion in the right-of-way, and any other relevant factors. The guidance shall include recommendations on the most appropriate circumstances for utilization of redirective and nonredirective crash cushions.

"(2) Use of guidance. - States shall use the guidance issued under this subsection in evaluating the safety and cost-effectiveness of utilizing different crash cushion designs and determining whether redirective or nonredirective crash cushions or other safety appurtenances should be installed at specific highway locations.

"(b) Traffic Flow and Safety Applications of Road Barriers. -

"(1) Study. - The Secretary shall conduct a study on the technologies and methods to enhance safety, streamline construction, and improve capacity by providing positive separation at all times between traffic, equipment, and workers on highway construction projects. The study shall also address how such technologies can be used to improve capacity and safety at those specific highway, bridge, and other appropriate locations where reversible lane, contraflow, and high occupancy vehicle lane operations are implemented during peak traffic periods.

"(2) Uses to consider. - In conducting the study, the Secretary shall consider, at a minimum, uses of positive separation technologies related to -

"(A) separating workers from traffic flow when work is in progress;

"(B) providing additional safe work space by utilizing adjacent and available traffic lanes during off-peak hours;

"(C) rapid deployment to allow for daily or periodic restoration of lanes for use by traffic during peak hours as needed;

"(D) mitigating congestion caused by construction by -

"(i) opening all adjacent and available lanes to traffic during peak traffic hours; or

"(ii) using reversible lanes to optimize capacity of the highway by adjusting to directional traffic flow; and

"(E) permanent use of positive separation technologies to create contraflow or reversible lanes to increase the capacity of congested highways, bridges, and tunnels.

"(3) Report. - Not later than 18 months after the date of enactment of this Act [June 9, 1998], the Secretary shall submit

to Congress a report on the results of the study. The report shall include findings and recommendations for the use of the technologies referred to in paragraph (2) to provide positive separation on appropriate projects."

#### METRIC REQUIREMENTS

Pub. L. 104-59, title II, Sec. 205(c), Nov. 28, 1995, 109 Stat. 577, as amended by Pub. L. 105-178, title I, Sec. 1211(d), June 9, 1998, 112 Stat. 188, provided that:

"(1) Placement and modification of signs. - The Secretary shall not require the States to expend any Federal or State funds to construct, erect, or otherwise place or to modify any sign relating to a speed limit, distance, or other measurement on a highway for the purpose of having such sign establish such speed limit, distance, or other measurement using the metric system.

"(2) Other actions. - The Secretary shall not require that any State use or plan to use the metric system with respect to designing or advertising, or preparing plans, specifications, estimates, or other documents, for a Federal-aid highway project eligible for assistance under title 23, United States Code.

"(3) Definitions. - In this subsection, the following definitions apply:

"(A) Highway. - The term 'highway' has the meaning such term has under section 101 of title 23, United States Code.

"(B) Metric system. - The term 'metric system' has the meaning the term 'metric system of measurement' has under section 4 of the Metric Conversion Act of 1975 (15 U.S.C. 205c)."

#### TYPE II NOISE BARRIERS

Section 339(b) of Pub. L. 104-59 provided that:

"(1) General rule. - No funds made available out of the Highway Trust Fund may be used to construct Type II noise barriers (as defined by section 772.5(i) of title 23, Code of Federal Regulations) pursuant to subsections (h) and (i) of section 109 of title 23, United States Code, if such barriers were not part of a project approved by the Secretary before the date of the enactment of this Act [Nov. 28, 1995].

"(2) Exceptions. - Paragraph (1) shall not apply to construction of Type II noise barriers along lands that were developed or were under substantial construction before approval of the acquisition of the rights-of-ways for, or construction of, the existing highway."

#### HIGHWAY SIGNS FOR NATIONAL HIGHWAY SYSTEM

Section 359(b) of Pub. L. 104-59 provided that:

"(1) Study. - The Secretary shall conduct a study to determine the cost, need, and efficacy of establishing a highway sign for identifying routes on the National Highway System. In conducting the study, the Secretary shall make a determination concerning whether to identify National Highway System route numbers.

"(2) Report. - Not later than March 1, 1997, the Secretary shall transmit to Congress a report on the results of the study."

#### USE OF RECYCLED PAVING MATERIAL

Section 1038 of Pub. L. 102-240, as amended by Pub. L. 104-59, title II, Sec. 205(b), title III, Sec. 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